

International Labour Conference

TWENTY-FOURTH SESSION

GENEVA, 1938

GENERALISATION

OF THE

REDUCTION OF HOURS OF WORK

Fifth Item on the Agenda

GENERAL INTRODUCTION

PART I: INDUSTRY, COMMERCE AND OFFICES

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INTERNATIONAL LABOUR OFFICE

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GENERAL INTRODUCTION

A. — THE QUESTION OF REGULATING HOURS OF WORK AND THE INTERNATIONAL LABOUR ORGANISATION DURING THE PERIOD 1919-1937

The action taken by the International Labour Organisation with a view to limiting hours of work may be divided into two main stages. During the first, from 1919 to 1930, its efforts were directed towards the framing of international Conventions concerning the 48-hour week. The main feature of the second stage, which began in 1931, is the numerous attempts that have been made to reduce the working week to 40 hours by means of international regulations.

§ 1. — The Generalisation of the 8-hour Day and 48-hour Week (1919-1930)

The Preamble to the Constitution of the International Labour Organisation indicates as an example of the measures required for the improvement of conditions of labour "the establishment of a maximum working day and week". Further, Section II. of the Constitution, concerned with general principles, contains an article formulating the methods and principles "for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit", and among these principles is "the adoption of an eight hours day or a forty-eight hours week as the standard to be aimed at where it has not already been attained". Finally, the Constitution incorporates, as an annex, the agenda of the first session of the International Labour Conference (Washington, 1919) which included

as the first item, " application of principle of the eight hours day or of the forty-eight hours week ".

Efforts to generalise these limits were made for industry, shipping, agriculture, and commerce and offices in turn. A brief account is given below of the procedure followed and the results obtained.

1. INDUSTRY

The first international Convention adopted by the First Session of the International Labour Conference in 1919 limits the hours of work in industrial undertakings to 8 in the day and 48 in the week. It has done much to promote the generalisation of the 48-hour week in industry and to standardise the methods of applying this limit in the different countries.

This Convention was ratified fairly soon by some States, but the principal industrial countries did not wish to bind themselves separately. Some of them accordingly put forward the idea of simultaneous ratification, which led to the holding of two semi-official Conferences attended by various Ministers of Labour for the purpose of interpreting certain terms used in the Washington Convention and certain clauses of the Convention.

The first of these Conferences was held at Berne in September 1924 and was attended by the Ministers of Labour of Belgium, France, Germany, and Great Britain. The second Conference was held in London in March 1926, the Ministers of Labour of the same countries being present together with the Italian Minister of Labour. The conclusions reached at each of these Conferences were duly recorded and signed.

At present, the Washington Convention has been ratified unconditionally by the following countries: Argentina, Belgium, Bulgaria, Canada, Chile, Colombia, Cuba, Czechoslovakia, the Dominican Republic, Greece, India, Lithuania, Luxemburg, Nicaragua, Portugal, Rumania, Spain, and Uruguay. It has been ratified conditionally by Austria, France, Italy, and Latvia.

2. SHIPPING

A clause of the Washington Convention states that the provisions relative to transport by sea and on inland waterways shall be determined by a special conference dealing with employment at sea and on inland waterways. This task was entrusted to the Second Session of the International Labour Conference, held at Genoa in

June 1920, but there was a sharp difference of opinion in the committee set up by the Conference to consider the proposed Draft Convention. On the one hand, it was held that it would be better to lay down a limit which might in some cases be higher than 8 hours a day but which would be absolutely binding, while on the other, it was argued that a limit of 8 hours should be laid down as a principle but that this limit might be exceeded constantly by the use of overtime on condition that extra pay was given.

Owing to this conflict of opinion, the proposed Draft Convention failed to obtain the necessary two-thirds majority, although by the change of one vote the majority would have been obtained. Two Recommendations were adopted, one concerning the limitation of hours of work in the fishing industry, and the other concerning the limitation of hours in inland navigation.

Since, however, there was a desire not to consider this setback as final, a Joint Maritime Commission was formed in November 1920 to provide an opportunity for the representatives of shipowners and seamen to come to an agreement on the organisation of a joint conference for the purpose of reconsidering the whole problem of the limitation of hours of work on board ship. This Joint Maritime Commission has held several sessions. It was not until 1936 that the International Labour Conference, at a special Maritime Session, succeeded in adopting a Draft Convention concerning hours of work on board ship and manning, according to which hours may not exceed 8 in the day and 48 in the week, or 8 in the day and 56 in the week, according to the class of the vessel.

3. AGRICULTURE

For agriculture, as for shipping, the first efforts to limit hours of work proved unavailing. The Governing Body placed the question on the agenda of the 1921 Session of the Conference, but the majority of the Governments consulted before the Conference were opposed to the idea of adopting an international Draft Convention, and the question was withdrawn from the agenda of the Conference on a formal proposal, the two-thirds majority necessary for maintaining it on the agenda not having been obtained. A resolution was adopted, however, demanding that the question should be taken up again at one of the next sessions. At the Tripartite Preparatory Conference convened in 1933 to study the problem of hours of work and unemployment the workers' group put forward a resolution demanding regulations on the subject, and this reso-

lution was referred to the International Labour Office, with the result that the limitation of hours of work in agriculture was placed on the agenda of the first session of the Permanent Agricultural Committee held at Geneva in February 1938. This Committee decided to request "the Governing Body to instruct the International Labour Office to continue its studies of the question with a view to its being placed on the agenda of one of the very next sessions of the Conference after it has been re-submitted to the Permanent Agricultural Committee in 1939, which could then make positive proposals to the Governing Body".

4. COMMERCE AND OFFICES

It was not until ten years after the adoption of the Convention for industry that the International Labour Office considered the extension of the 8-hour day and 48-hour week to commercial establishments. At its 1930 Session the Conference adopted a Draft Convention concerning the regulation of hours of work in commerce and offices.

This Convention has been ratified unconditionally by Bulgaria, Chile, Cuba, Finland, Mexico, Nicaragua, Uruguay and Spain, and conditionally by Austria.

§ 2. — The Reduction of Hours of Work to 40 in the Week (1931-1937)

1. THE FIRST REDUCTIONS OF THE WORKING WEEK TO UNDER 48 HOURS

By 1931 the principle of the 48-hour week had thus been established in two international Conventions, one applicable to industry, the other to commerce and offices. But from 1929 fresh efforts were made within the Organisation to reduce hours still further in coal mines and in automatic sheet-glass works.

(a) *Coal Mines*

Owing to the difficulties with which the coal-mining industry was faced, the International Miners' Federation had demanded since 1925 the international standardisation of miners' conditions of

employment and the fixing of the working day at 7 hours from bank to bank. A similar demand had been put forward by the International Congress of Christian Miners' Unions. The problem was referred to the Governing Body of the International Labour Office by a resolution adopted by the Assembly of the League of Nations in 1929. The Governing Body decided in consequence, first, to convene a Preparatory Technical Conference in January 1930, and then to place the question of the reduction of hours of work in coal mines on the agenda of the 1930 Session of the Conference.

In 1930 the proposed Draft Convention failed to obtain the necessary two-thirds majority for lack of a few votes, but the Conference at once decided to place the question again on the agenda of the 1931 Session, and in that year a Draft Convention was finally adopted limiting hours of work in coal mines. According to this Draft Convention, the time spent in the mine by any person occupied underground in coal mines may not exceed 7 hours 45 minutes in the day.

The coming into operation of the Convention, which was made conditional on ratification by two of the seven principal coal-producing countries, met with certain technical difficulties. It was consequently revised in 1935 in order to take these difficulties into account, but in spite of the technical changes made in its text, ratifications are still awaited.

(b) *Automatic Sheet-Glass Works*

Whereas the Coal Mines Convention of 1931 (and the revised Convention of 1935) reduced the limit for the working week to very little below 48 hours, a greater reduction was obtained in 1934 for persons working in successive shifts in necessarily continuous operations in automatic sheet-glass works. The workers' organisations having given up their demand for a compulsory weekly rest in glass works where tank furnaces are used (on which question an attempt to introduce an international Convention had failed after discussion in the two Sessions of the Conference of 1924 and 1925), and the employers having agreed that the sheet-glass industry had undergone a complete technical revolution since the war, leading to the substitution of automatic machinery for manual work, the Conference adopted a Draft Convention in 1934 introducing the system of four shifts and an average working week of 42 hours. The underlying idea of the Convention was that the reduction of hours was to compensate for the loss of their Sunday rest suffered by the workers in this industry.

2. ACTION TAKEN WITH A VIEW TO THE INTERNATIONAL REGULATION OF HOURS OF WORK ON THE BASIS OF THE 40-HOUR WEEK

In 1929 and 1930 serious economic depression again became widespread throughout the world and soon the number of workers who were out of work could be counted in tens of millions. Once unemployment had become widespread, the reduction of hours of work was contemplated as a means of relieving its effects.

It is therefore not surprising that the question of the reduction of hours of work was brought before the Unemployment Committee of the Governing Body of the International Labour Office at its session in January 1931. The suggestion of the workers' representatives that "a reasonable shortening of the working day or week, taking into account the increase in output obtained by improved methods of production" should be advocated was contested by the employers' representatives, and the Committee invited the Office to work for a narrowing of the gap between the two points of view, in order to lead to positive action.

In October 1931 the Governing Body examined the means of giving effect to a resolution of the Conference requesting it to consider ways of developing the work of the International Labour Organisation so as to remedy unemployment and its consequences, and decided to call another meeting of the Unemployment Committee to discuss "the possibility of arriving at a more satisfactory arrangement of hours of work by means of international agreement, whether general or by industry".

The Unemployment Committee met in December 1931 and again in January 1932, and adopted a resolution which drew the attention of all industrial communities to the advantages of the abolition of overtime and of the reduction of individual hours of work on the basis of the 40-hour week, in order to prevent the discharging of workers and even to allow of the engagement of unemployed workers. The Director of the International Labour Office was invited to examine, in respect of different industries, whether the situation was such as to render international agreements possible and, if so, to offer the services of the Office to the Governments concerned, with a view to convening any meeting which might be considered useful for this purpose. The Committee also drew attention to the problem of a permanent reduction of hours of work in those industries in which technical progress had been considerable, and invited the Office to investigate it.

At its session of March 1932, the Unemployment Committee adopted a resolution which advocated the reduction of hours of work as a means of limiting the discharge of salaried employees and encouraging their re-engagement.

These two resolutions of the Unemployment Committee, which were approved by the Governing Body, related mainly to temporary measures for the reduction of hours with a view to overcoming the effects of the depression on employment. They accepted the idea of a reduction in wages and salaries proportionate to the reduction of hours, while suggesting the possibility of certain palliatives. In other words, the object was very definitely that of sharing employment and not of permanently reducing hours of work.

A further stage was reached at the 1932 Session of the International Labour Conference, which adopted a resolution submitted by Mr. Jouhaux, French workers' delegate, drawing attention to the need of international regulations for limiting hours of work to 40 in the week.

Considering the importance of the arguments put forward in this resolution, it may be reproduced here in full:

"In view of the continuance of the present depression with the sufferings it involves, it must be affirmed that palliatives are insufficient and that, if the suffering caused by the economic depression and by unemployment is to be mitigated, the causes of the depression must be directly attacked;

"In view of its prolongation unemployment must no longer be regarded merely as an effect of the depression; it has become one of the causes which aggravate it;

"The disequilibrium between disproportionately increased production and a capacity for consumption which was insufficient even at the beginning of the depression and which to-day is still further diminished condemns any policy of wage reduction which experience shows is in contradiction with economic requirements, in addition to being unjust;

"The principal means of restoring the equilibrium which has been upset must be sought in the reduction of hours of work. The increase in individual output renders this measure indispensable and urgent. By this means production can be adjusted to the level of a temporarily limited capacity of consumption, available work can be permanently distributed over a larger number of persons, and the unemployed can be reinstated in their positions in the economic system. Further, by this means the wage earners will secure a legitimate share in the benefits of technical progress;

"The Conference accordingly invites the Governing Body of the International Labour Office to investigate the question of the legal institution of the 40-hour week in all industrial countries, with a view to the early adoption of international regulations on the subject."

Soon after, on 25 July 1932, Mr. de Michelis, the Italian Government delegate, addressed a letter to the Chairman of the Governing

Body of the International Labour Office, in-which, in view of the increasing gravity of the depression, he requested that a special Session of the Conference should be held for the following reasons, among others:

“ Under pressure of the crisis the redistribution of labour upon the different national markets is effected to a large extent by legislative measures or labour agreements. This redistribution, which is carried out haphazard and is therefore not so effective as it should be, can only be ensured by international agreements which would guarantee the industries of each country against foreign competition and would thus, by forming a solution to the crisis and a permanent improvement in the standard of living, lead to the only practical result, namely, a decrease in hours of work without a consequent decrease in the standard of living of the masses.

“ It is for this reason that international action is of immediate necessity. It is not so much necessary to “ define ” to what extent the technical progress realised between 1919 and the present day would allow a further reduction in hours of work due to increased output. It is necessary to lay down *immediately* a uniform international scale which even though only approximate for the moment would allow the reduction of hours of work as a means of combating unemployment. and in general as a means of re-absorbing a part of the unemployed in the machinery of production.”

To give effect to the Conference resolution and the suggestion of the Italian Government delegate, the Governing Body, at a special session, in September 1932, decided to refer the technical problems connected with a reduction of hours of work (which would be set forth in a report of the Office) for study to a tripartite preparatory conference, which would be held in January 1933 at Geneva. Next, in October 1932 the Governing Body placed the following question on the agenda of the 1933 Session of the International Labour Conference: “ The reduction of hours of work; Report of the Tripartite Preparatory Conference ”.

The Tripartite Preparatory Conference, which was attended by representatives of 35 States, devoted several days to a detailed general discussion on the question whether a concerted reduction of hours of work could to a certain extent diminish the volume of unemployment, either immediately or even when a partial economic recovery occurred.

The arguments in favour of the reduction of hours of work as a remedy for unemployment were put forward by members of the workers' group and by the representatives of certain Governments. In submitting those arguments, the workers' group stated that they considered “ the principle of the maintenance of earnings as an essential condition of the proposed measure, since the present

depression was fundamentally due to under-consumption". In their view, the workers had already, as the fact of unemployment indicated, borne the cost of rationalisation in industry and they could not admit that still further sacrifices should be demanded of them.

The employers' representatives put forward a number of objections to the reduction of hours of work. They held that a general and compulsory reduction of hours, accompanied by an increase of hourly rates, would entail a considerable increase in production costs and selling prices, which would result in a fall in demand calculated to produce fresh unemployment. Further, it would lead to dangerous inflation, owing to the maintenance of weekly earnings; to a further reduction of the demand for industrial products by the agricultural population; to a decrease in the purchasing power of other classes of the population than the workers, so that in the end the total demand for industrial products would not be increased. Again, the impossibility of instituting a rotation system in small establishments and the fact that many undertakings were already working short time would mean that the reduction of hours would have little or no effect in creating further employment. It would artificially accentuate mechanisation and would produce various technical difficulties. Moreover, it would hamper certain countries which were accustomed to regulate hours of work through collective agreements, and would increase the disparity between countries in regard to wages, standards of living, population factors, economic factors, etc. Finally international uniformity of hours of work did not appear practicable; it ought to be accompanied by uniformity of wages and other conditions, in order to provide international equality.

The Government delegates were not unanimous in their views. In general, they were of opinion that the question of wages should not be dealt with in a Convention, since it would be difficult to draw up an effective international agreement on this point. They held, however, that the reduction of hours of work should as far as possible be accompanied by the maintenance of the standard of life.

The general discussion was closed by the adoption of the following resolution, submitted by the Government delegates of France, Belgium, the Netherlands, Spain, Chile, Germany and Italy:

"The Conference, after reviewing the various arguments advanced for and against a reduction of working hours, considers that it is one of the measures which would contribute to reducing unemployment.

"The Conference therefore decides to examine its detailed aspects, taking the questions raised in Part II of the conclusions of the report of the Office as the basis of its examination, in order to reach an arrangement of an international character, the methods of giving effect to which would be determined with a view to rendering possible the maintenance of the standard of life of the wage earners."

The Conference also approved certain guiding principles for the future international regulations.

3. FAILURE OF EFFORTS FOR THE ADOPTION OF GENERAL CONVENTIONS

In 1933 the International Labour Conference had before it a report which, in accordance with a decision of the Governing Body, contained not only the report of the Tripartite Preparatory Conference and the observations received from Governments but also preliminary drafts for definite texts which the Conference could, if it thought fit, take as a basis of discussion. To this end the Office had submitted to the Conference two proposed Draft Conventions for limiting the working week to 40 hours in industrial undertakings and in commercial and similar establishments, respectively, and a proposed Draft Convention for adapting the 40-hour week system to coal mines. In addition, it had submitted a draft Recommendation concerning the maintenance of the standard of living of the workers and a draft resolution concerning enquiries into technological unemployment.

In June 1933 the Conference decided that the question of the reduction of hours of work might usefully be made the subject of a Draft Convention or a Recommendation but that only a first discussion should take place at that Session, and that the question should be placed on the agenda of the next Session with a view to a second discussion. In addition, the Conference determined the points on which Governments should be consulted for the purpose of the second discussion. The points concerning the desirability of international regulations and their nature were preceded by a preamble inviting Governments to give their views and information for their respective countries on the volume of employment, hours of work, rotation systems, the effect of a reduction of hours of work on unemployment, on the cost of production and on the general national economy, and the technical practicability of reducing hours of work to 40 per week.

On the basis of the Governments' replies, the Office submitted to the 1934 session of the Conference two proposed Draft Conven-

tions concerning the 40-hour week for industry, on the one hand, and commerce and offices, on the other, together with a draft Recommendation concerning the maintenance of the standard of living in the event of the reduction of hours of work, and a draft Resolution concerning technological unemployment.

However, although after long discussion the Conference decided to refer the proposed drafts of the Office to a committee for consideration, this Session of the Conference failed to lead to the adoption of any general Conventions. The representatives of the employers (with the exception of the Italian representative) refused to take part in the work of the committee. In their absence, the workers' members of the committee were able to secure the adoption of a number of amendments which, among other things, considerably extended the scope of the proposed regulations. Consequently, when the texts adopted by the committee came up for discussion by the Conference in plenary sitting, the first article of the proposed Draft Convention relating to industrial undertakings failed to be adopted, a quorum not having been obtained.

As further progress could not be made on these lines, the Conference adopted a resolution which declared that the "reduction of hours of work, considered either as a palliative of unemployment or as a method of enabling the workers to share in the benefits of technical progress, remains one of the principal tasks of the Organisation". The resolution added that the Conference had shown itself to be in favour of the principle of the reform, and requested the Governing Body to place once more the question of the reduction of hours of work upon the agenda of the next Session of the Conference for the adoption of one or more Draft Conventions.

4. THE CONVENTION OF PRINCIPLE (1935) AND THE CONVENTIONS FOR ITS APPLICATION (1935-1937)

As the principle of the reduction of hours of work had been repeatedly approved by substantial majorities of the Conference, although agreement could not be reached on the adoption of general Conventions for all industrial undertakings and all commercial establishments, the question of giving effect to the principle through a series of special Conventions arose. In September 1934 the Governing Body instructed the Office to draw up for the next Session of the Conference "a draft for a single Convention providing for the reduction of hours of work in all classes of establishments".

It added that the Conference should determine at that Session and at subsequent Sessions the classes of establishment to which this reduction should apply, and the method of application for each of them. The Governing Body also selected the activities to which the principle of the 40-hour week should be applied in the first place.

At the end of the general discussion which took place at its 1935 Session, the Conference adopted a resolution in which it considered "that a general Convention should be adopted on the principle of a 40-hour week with the maintenance of the standard of living of the workers; this Convention would constitute the framework within which the different industries would be placed". Its Hours of Work Committee laid before it the text of a Draft Convention drawn up in accordance with this resolution. This Convention was adopted and is known as the Forty-Hour Week Convention, 1935.

The Preamble to the Convention contains the following paragraphs:

"The General Conference...

"Considering that unemployment has become so widespread and long-continued that there are at the present time many millions of workers throughout the world suffering hardship and privation for which they are not themselves responsible and from which they are justly entitled to be relieved;

"Considering that it is desirable that workers should as far as practicable be enabled to share in the benefits of the rapid technical progress which is a characteristic of modern industry; and

"Considering that in pursuance of the Resolutions adopted by the Eighteenth and Nineteenth Sessions of the International Labour Conference it is necessary that a continuous effort should be made to reduce hours of work in all forms of employment to such extent as is possible;

"Adopts..."

Article 1 of the Convention introduces the principle of the 40-hour week and indicates the methods by which its application should be ensured.

"Each Member of the International Labour Organisation which ratifies this Convention declares its approval of:

- "(a) the principle of a 40-hour week applied in such a manner that the standard of living is not reduced in consequence; and
- "(b) the taking or facilitating of such measures as may be judged appropriate to secure this end;

and undertakes to apply this principle to classes of employment in accordance with the detailed provisions to be prescribed by such separate Conventions as are ratified by that Member."

After having adopted the Draft Convention, the Conference passed the following resolution concerning the maintenance of the standard of living of the workers:

" The Conference,

" Having adopted a Draft Convention declaring its approval of the principle of the 40-hour week,

" Considering that the application of this principle should not as a consequence reduce the weekly, monthly or yearly income of the workers, whichever may be the customary method of reckoning, nor lower their standard of living,

" Invites Governments:

- " (1) to take appropriate measures in order to ensure that any adjustment of wages and salaries should be effected as far as possible by means of direct negotiations between employers' and workers' organisations concerned; and
- " (2) after consultation with the organisations of employers and workers concerned, to take or facilitate appropriate measures to enable either of the parties concerned, if agreement between them cannot be reached, to submit the dispute to bodies competent to deal with wage questions, such bodies being set up, where they do not exist, for the purpose; and
- " (3) to furnish to the International Labour Office periodic reports upon the measures they have taken for the introduction of the 40-hour week and for the maintenance of the standard of living of the workers."

Having laid down these general principles in the form of a Draft Convention and a Resolution, it remained for the Conference to give concrete effect to them by means of international Conventions which would apply them at once to several industries or branches of industry. It was clear that the Governing Body considered that the extension of the 40-hour week should be effected rapidly, since most of the industries and activities that it selected for consideration by the 1935 Session of the Conference with a view to the first measures of application employ a large number of workers. These industries and activities were the following: public works undertaken or subsidised by Governments, iron and steel, building and contracting, glass-bottle works, and coal mines.

In fact, however, the 1935 Session of the Conference adopted only one Draft Convention, concerning the reduction of hours of work in glass-bottle manufacture. The proposed Draft Conventions

concerning public works and building and contracting respectively did not obtain the necessary two-thirds majority on the final vote. As regards the proposed Draft Conventions for iron and steel and for coal mines, the Conference rejected the single-discussion procedure and it decided that all four of these proposed Draft Conventions should be referred to the 1936 Session of the Conference for second discussion.

At that Session, in 1936, only one Draft Convention—concerning public works—was adopted, whereas the proposed drafts for building and contracting, iron and steel, and coal mines failed to obtain the two-thirds majority. For each of these industries the Conference passed a resolution requesting the Governing Body to consider the convening of a tripartite conference with a view to reaching an understanding as to hours of work.

The textile industry came before the Conference for the first-time in 1936 as a result of a resolution adopted by the 1935 Session of the Conference. After deciding not to follow the single-discussion procedure the Conference adopted a list of points for a questionnaire to be submitted to Governments. At the same time a resolution was passed, suggesting the convening of a conference "to consider how the work already undertaken by the International Labour Organisation in connection with the improvement of conditions in the textile industry could best be achieved and to take into account all those aspects of the textile industry which, directly or indirectly, might have a bearing on the improvement of social conditions in that industry". The proposed Conference was held at Washington in April 1937, and adopted three reports, dealing respectively with the economic problems, social problems, and statistics of the textile industry. The reports were submitted to the 1937 Session of the Conference.

At its 1937 Session the Conference adopted a Draft Convention introducing the 40-hour week in the textile industry and a resolution concerning the modifications that might be made in that Draft Convention in the case of certain countries in which it might not be practicable to apply it without modification.

Further, the Conference had on its agenda, for the first time, the reduction of hours in printing and kindred trades and in the chemical industry, each of which had been the subject of discussion by a Preparatory Tripartite Meeting. The Conference decided to adopt the single-discussion procedure for those two industries, but the necessary two-thirds majority was not obtained when the vote was taken on the proposed Draft Conventions submitted to it.

5. THE QUESTION OF THE GENERALISATION OF THE REDUCTION OF HOURS OF WORK PLACED ON THE AGENDA OF THE 1938 SESSION OF THE CONFERENCE

As by the end of 1937 the only results of the efforts made by the Organisation since 1931 to reduce the working week to 40 hours were the adoption of the Convention of principle (1935) and of three Conventions for its application to the textile industry, public works, and glass-bottle manufacture respectively, the workers' representatives became disturbed at the slowness with which the international regulations were being extended; Mr. Mertens and Mr. Jouhaux submitted to the Conference a resolution which was adopted and which demanded that the efforts made to generalise the reduction of hours of work should be considered on new lines with a view to the adoption of very general regulations applicable to all workers not covered by the Conventions already adopted. The text of this resolution is as follows:

"The Twenty-third Session of the International Labour Conference, examining the efforts made since 1931 by the International Labour Organisation to reduce as far as possible the disastrous effect of the world depression on the economic system of all countries in general and on the working classes in particular;

"Considering that, of the measures advocated, the reduction of hours of work is of outstanding importance and has above all others engaged the attention of the International Labour Organisation;

"Considering that, at the Eighteenth Session in 1934, the attempts to prepare and adopt a general Convention with a view to introducing the 40-hour week in all countries and in all industries were unsuccessful;

"Considering that at that time it appeared that more tangible results could be obtained if the question of the reduction of the working week were considered separately for each industry;

"Considering that for that purpose a procedure was put into operation with a view to the adoption of Conventions covering several industries, for example the iron and steel industry, the building industry, the coal-mining industry, glass-bottle works, public works, the textile industry, etc.;

"Considering that only two Conventions have been adopted, namely those concerning public works and glass-bottle works;

"That, on the other hand, the attempts to arrive at the adoption of Conventions concerning the coal-mining industry, the iron and steel industry and the building industry were unsuccessful;

"Considering that such a procedure entails more risks than tangible results and will require an incalculable number of years before a satisfactory solution is achieved;

"Considering that the economic situation and the attempts which have been made to deal with the question show clearly that efforts should be directed towards the adoption of a general Convention;

" But considering that the procedure already set in motion concerning the industries included in the agenda of the 1937 and 1938 Sessions should follow its course,

" Requests the Governing Body to examine the situation and to consider placing on the agenda of the next Session of the Conference the question of the generalisation of the reduction of hours of work in all economic activities which are not covered by the Conventions already adopted and those to be adopted by the Twenty-third Session of the Conference."

After a long discussion on the procedure to be followed, the Governing Body adopted the following resolution, submitted by the United States' and French Government representatives:

" The Governing Body in discussing the resolution transmitted to it by the Twenty-third Session of the International Labour Conference, which proposes placing on the agenda of the next session of the Conference the question of the generalisation of the reduction of hours of work in all economic activities which are not covered by the Conventions already adopted;

" Decides:

" (1) That the question of the generalisation of the reduction of hours of work shall be placed on the agenda of the 1938 Session;

" (2) That the question shall be considered as coming up for first discussion, namely, that it shall be followed by a consultation of the Governments the results of which will be submitted to the 1939 Session with a view to the preparation of a Draft Convention;

" (3) That the Director of the International Labour Office shall draw up a grey report which will enable the International Labour Conference to take a decision as regards all the classes of workers to be included in the consultation of the Governments.

" It is understood:

" (1) that the question of the reduction of hours of work in agriculture will be examined by the Governing Body when the report of the Permanent Agricultural Committee, to which the matter has already been referred and which is to meet in February 1938, is submitted to it;

" (2) that the question of the reduction of hours of work in the mercantile marine remains a matter for the Joint Maritime Commission."

The present Report has been drawn up to give effect to the instructions contained in this resolution.

B. — STRUCTURE OF INTERNATIONAL REGULATIONS

The 1938 Session of the Conference will deal in a first discussion with the question of the generalisation of the reduction of hours of work. This formula is taken to cover all branches of economic activity, and more particularly industry, commerce and offices, transport, and mining. Agriculture and shipping are left out of account, provision having been made for a special procedure for their consideration by the Governing Body, with a view to their being placed on the agenda of future sessions of the Conference.

The question arises as to the form that should be given to the proposed international regulations concerning reduction of hours of work; the Conference will have to consider this question from the beginning of the first discussion.

It is important to note at the start that at the 1937 Session the Conference voted against the procedure followed during the last few years of applying the 1935 Convention on the 40-hour week by means of a series of separate Conventions covering individual industries or branches of industries. This method, which resulted in excessive subdivision having been discarded, it would be possible to consider drawing up either a single Convention, covering all the activities included in the item placed on the agenda as the generalisation of the reduction of hours of work, or separate Conventions for the four or five main branches of economic activity.

§ 1. — A Single General Convention ?

The adoption of a single general Convention would meet the wishes of the workers' organisations, which at previous sessions of the Conference have vigorously criticised the inadequacy of the results obtained by the procedure that consists in framing a large number of Conventions on the 40-hour week for separate branches of industry. Arguing from the experience of the last few years, several workers' representatives have maintained that if this procedure of splitting up the international regulations were continued, it would need dozens of years to establish dozens of Conventions. The workers' object, however, is to obtain the rapid internationalisation of the 40-hour week.

The method of a single general Convention would also satisfy those States which have reduced the working-week to 40 hours without awaiting the preparation of the special Conventions for which the 1935 Convention of principle made provision, and which rely on the action of the International Labour Organisation for the cessation or *substantial* diminution of the disparities between the national regulations limiting hours of work. Since the movement in favour of the 40-hour week first began, the advocates of the reduction of hours have been unanimous in every country in their demand for the adoption of international regulations. After the 1935 Convention on the principle of the 40-hour week had been adopted, certain Governments believed that the declaration of principle would be followed soon after by national action on a wide scale, and that they would be able to introduce the 40-hour week in their own countries, thus setting an example which would give a vigorous impetus to the work of generalisation being carried on at Geneva.

Finally, it may be argued that the adoption of a single general Convention would be the best method of arriving at coherent international regulations and of avoiding divergent solutions for identical problems, such divergencies not necessarily being called for on account of the special conditions of the various industries but being rather the result of changing majorities at successive sessions of the Conference.

The arguments that can be put forward against a single general Convention are by no means negligible.

In the first place, it is certain that a single general Convention would form a complex piece of legislation. Contrary to a fairly widespread view, an international Convention on hours of work cannot confine itself to enumerating a few simple positive rules. For any State that ratifies the Convention, each rule means an international engagement, the import of which must be defined by the international regulations. For example, as regards scope, the Convention must indicate the classes of undertakings and of persons compulsorily covered by it and those for which the national laws or regulations may allow exceptions or exemptions. Similarly, the Convention cannot confine itself to laying down the principle of the 40-hour week, but must state clearly the cases in which the laws or regulations of the ratifying States may allow the 40-hour week to be exceeded.

Further, a single general Convention must necessarily take account of the special conditions of hours of work regulation

that are inherent in certain branches of economic activity. Besides its general rules, it is bound to contain special rules for certain commercial undertakings (shops, hotels, restaurants, hospitals, etc.), transport by rail, inland navigation, transport by air, and mining.

Even though, technically speaking, it would not be impossible to draw up such a general Convention, the question then arises of how any practical discussion of so complex a text by the Conference is to be organised. If the generalisation of the reduction of hours of work is the subject of a single question on the agenda of the Conference, each delegate may bring with him not more than two advisers for the discussion of this question. It may be doubted whether delegations so constituted can speak with sufficient authority on the extremely varied solutions that are of interest to industry, commerce, offices, the different branches of transport, and mining respectively. In other words, it is clear that neither Government delegations nor workers' and employers' delegations can comprise a body of experts on hours of work questions or representatives of the particular organisations of employers and workers which are more directly interested in the special provisions for their respective branches of activity. It seems that, in these circumstances, international regulations on hours of work in transport and mining, for instance, would be drafted in the absence of a sufficient number of delegates and advisers with real competence in transport and mining questions.

But supposing that the difficulties thus indicated can be overcome, and that a single and necessarily complex text is drawn up, will it have much chance of being adopted by a two-thirds majority and of being ratified by an appreciable number of States?

Consideration of the present state of hours of work legislation shows that, even in the most advanced countries in this respect, the process of introducing regulations for the reduction of hours has not been equally rapid for every branch of activity. Thus, in the United States, where the 40-hour week is generally applied in industry, the railways continued to work a 48-hour week even at the time when the observance of the codes of fair competition was compulsory. In Italy the regulations introducing the 40-hour week in industry do not apply to railroads or to commercial establishments. In New Zealand the statutory working week, fixed at 40 hours in industrial undertakings, is 44 hours in commercial undertakings. In many other countries the limits set to hours of work show an even greater diversity according to the branch of economic activity.

In these conditions it would not be unreasonable to believe that a single text covering all undertakings and workers would meet with resistance in many quarters in respect of one or other of the many provisions it may contain. One country might hesitate to vote or ratify because it disagreed with the limits fixed for commercial establishments, another because it could not accept the rules laid down for transport, another because of those for mines, etc.

The question is therefore whether the drafting of several Conventions would not tend to remove difficulties and increase the chances of success of the proposed international regulations.

§ 2. — Separate Conventions for the Main Branches of Economic Activity ?

If it is found that the adoption of a general Convention would meet with too much resistance, and it is therefore preferred to consider the drafting of several separate Conventions, it should of course be clearly understood that there would be no return to the procedure followed during the last few years, a procedure which the 1937 Session of the Conference condemned when it adopted the resolution submitted by the representatives of the workers' organisations.

This earlier procedure meant that the international regulations were much split up. For example, for industry alone, excluding commerce, transport and mining, it would have required at least some fifteen Conventions, the discussion of which would have taken up the time of the Conference during at least five and perhaps as much as ten years.

But is it in fact impossible to find a third method, half-way between that of a single general Convention and the earlier method of excessive subdivision, a method which would avoid the disadvantages of both ? Would it not be possible to agree on a programme of international regulation of hours of work comprising essentially the following three groups: (a) industry, commerce and offices; (b) transport; (c) coal mines ?

It is on the basis of these three groups that the Office has drawn up the Report submitted to the Conference, for it found that a clear comparative analysis could not be made without taking account of the fact that in these three main branches of economic activity the

conditions in which the problems of limiting hours of work arise are different and call for special solutions.

1. INDUSTRY, COMMERCE AND OFFICES

Part I of the Report is devoted to a study of the regulation of hours of work in industry, commerce and offices. It closes with a chapter of conclusions and a list of points. These can be examined by a single committee of the Conference, which there should be no difficulty in constituting from among the delegates and advisers with competence for questions concerning the employment of workers and of salaried employees.

The presentation of the points in a joint list does not prejudice the final decision as to the form that the Conference may consider should be given to the future international regulations. It may provide either for a single Convention or for two separate Conventions, one for industry and the other for commerce and offices.

2. TRANSPORT

Part II of the Report deals with hours of work in transport and is divided into three sections: rail transport, inland water transport, and air transport. It should be noted that the question of road transport, which is a separate item on the agenda of the Conference, is the subject of another report.

After studying the national regulations on hours of work in the various branches of transport, the Office found it necessary to prepare three separate studies, leading to separate conclusions, one for rail transport, one for inland water transport, and one for air transport. The reason is that the problems and solutions involved in the regulation of hours of work differ widely for the three classes of transport, and that, unless a purely artificial construction were adopted, it would be impossible in practice to present the analysis of the regulations and the conclusions and lists of points jointly for all three.

(a) *Rail Transport*

Railway transport undertakings are extremely complex and comprise a great variety of services and classes of staff, whose conditions of employment differ widely. In particular, the regulation of hours of work must take into account the fact that for a considerable proportion of the staff the work comprises a variable

but often very considerable amount of light work or mere attendance. The national regulations make use either of long lists of services or occupations and fix special limits for their hours of attendance or duty, or of a whole system of coefficients for expressing the time spent on light work or in mere attendance in terms of hours of work. When it is remembered, further, that any regulation of hours of work in transport by rail must contain special provisions concerning breaks, the spread of the working day, and the minimum daily rest, it will perhaps be recognised that it would be difficult to adopt a single text applicable to industry, commerce, offices, and transport at once.

It may even be said that a proposal for international regulations on transport by rail cannot be properly considered otherwise than by a special committee of the Conference, which must include a sufficient number of representatives of the rail transport administrations and organisations of railway employees. It is open to question whether this important condition will be realised at the 1938 Session of the Conference.

(b) *Inland Water Transport*

As an international problem, the regulation of hours of work in inland water transport, i.e. of the crews of the vessels and craft, is also a special and complicated matter. This is due to the great diversity of vessels and craft, of the services in which they are engaged, and of the conditions of their operation, not only in different countries but also in one and the same country (e.g. big steamers manned and operated day and night like seagoing vessels, canal barges hauled by horses or tractors or in convoys by tugs, river ferries operated like a tramway, harbour lighterage work carried on like dock labour, etc., etc.).

This wide variety of conditions creates at the outset difficult questions as to the scope of any future international regulations, as regards both vessels and personnel. It also complicates the establishment of regulations by making it difficult to distinguish clearly between different services, vessels and classes of personnel, on the grounds of the nature of the work involved, for the purpose of applying different regulations to different sets of circumstances. In many cases, for example, the work of the inland watermen is largely of an intermittent character, periods of "stand by" at the disposal of the employer alternating with periods of active work during the course of the day. In other cases it is active work for the whole spell of duty. In some cases, again, the weekly rest

is hardly practicable for the periods while the vessel is in service; in others it can be a regular feature of the working conditions. Having regard, however, to the widely varied conditions to be taken into account, can definite criteria be evolved to distinguish these different cases ?

Add to this diversity of conditions, the facts that there is comparatively little national legislation in this field, that these legislations are largely based on different principles, and that the Office has been able to collect little information on the actual practice—and it will be understood that it has not been possible to make more than an incomplete survey of the problem in this Report.

Even so, it seems clear that this problem could only be satisfactorily considered at the Conference by a special committee composed of experts on the subject. It is hardly likely, however, that there will be many (if any) such experts in the national delegations. If this proves to be the case, the Office ventures to suggest that the Conference might consider the desirability of requesting the Governing Body to instruct the International Labour Office to undertake a comprehensive and detailed enquiry on the subject, with a view to such further action as might seem appropriate to prepare the way for future examination of the question by the Conference.

(c) Air Transport

For the first time the International Labour Office has been called upon to submit to the Conference a survey of a problem affecting air transport workers. The study it has submitted in this respect is confined to the navigating staff of commercial aviation, which includes all the persons whose work is normally done during navigation on aircraft used for transport. This staff consists, on the one hand, of persons serving on aircraft when engaged in commercial aviation, i.e. pilots, navigators, mechanics, wireless operators, and persons engaged in subsidiary duties (stewards, etc.), and, on the other hand, of employees, pilots and flying mechanics responsible for the reception and testing of machines which have not yet been put into commercial service.

By its very nature and the conditions in which it is carried out (altitude, atmospheric variations, nervous strain, dominating factor of safety, etc.) the work of this staff has very special aspects. There is not only the question of limiting hours of duty as a whole, but, within the limits fixed, of fixing a maximum for the time spent on navigation proper during a specified period, either by fixing the

maximum number of flying hours or by limiting the distances flown.

Hitherto, however, this question has not been dealt with by legislation. In the absence of adequate information on which to base a report, the Office has been unable to prepare a detailed study or a list of points. The survey it submits to the Conference is for these reasons very brief and can only serve as a contribution towards the discussion of the substance of the problem itself. In these conditions it seems out of the question to attempt the drawing up of a Draft Convention on the question at the present stage. It may be suggested, instead, that the Governing Body be requested to instruct the International Labour Office to continue its studies in this field with a view to enabling a future session of the Conference to return to the question.

3. COAL MINES

Part III of the Report studies the national regulations and the efforts made to introduce international regulations on hours of work in coal mines. The chapter containing the conclusions is followed by a list of points concerning coal mines only.

The many and various special problems involved in any regulation of hours of work in coal mines are too well-known to need description here. Besides, it was the special nature of these problems and their solutions that led in 1931 and 1935 to the adoption of special Conventions for coal mines. Moreover, a Technical Tripartite Meeting will be held during the first fortnight of May 1938 precisely for the purpose of considering the problem of the reduction of hours of work in coal mines.

The Session of the Conference in June 1938 will have before it, on the one hand, the present Report and, on the other, the results of the work of the Technical Tripartite Meeting, which will have closed about a fortnight before the Conference opens.

Will the three groups of the Conference include a sufficient number of delegates or advisers with a special knowledge of conditions of employment in coal mines? As the question of mines comes under the general question of the reduction of hours of work, it is to be feared that the number of experts on mining questions will be small, if not altogether insignificant. If so, the Conference will no doubt consider that it is not in a position to examine the Part of the Report dealing with hours of work in coal mines.

One solution would be to consider that the Technical Tripartite

Meeting in the first half of May 1938 undertook the first discussion of the question, and to place the question of the reduction of hours of work in coal mines as a special item on the agenda of the 1939 Session of the Conference for second discussion.

* * *

In brief, the suggestions outlined above provide for a programme for the international regulation of hours of work that might involve the consideration of five or six Conventions which, even with the double-discussion procedure, could reach their final discussion by the Conference in the space of a few years. This small number of Conventions would be prepared with the direct assistance of the parties concerned in special committees of the Conference, and even after consultation of tripartite technical meetings, if considered necessary. This would also provide a guarantee that the Conventions would be better adjusted to the special conditions entailed by the regulation of hours of work in the economic branches of activity in question.

If the 1938 Session of the Conference does not propose itself to decide the problems raised by the structure of any future international regulations, it might consult Governments on the following points:

(1) A single Draft Convention covering all branches of economic activity,

or separate Draft Conventions covering:

- (a) industry, commerce and offices;
- (b) transport;
- (c) coal mines.

(2) A single Draft Convention covering transport,

or separate Draft Conventions covering:

- (a) road transport;
- (b) rail transport;
- (c) inland water transport;
- (d) air transport.

* * *

The above brief account of the principal problems arising out of the structure of the international regulations on the reduction of hours of work shows that the Conference has a heavy task before it.

The Office has done its best to prepare the work of the Conference, and the drafting of this Report has needed a very special effort. Since the question of the generalisation of the reduction of hours of work was not placed on the agenda of the 1938 Session of the Conference until October 1937, the Office has had barely four months in which to prepare the Report, which had to be completed by the end of February 1938 in order that it might be translated, printed, and despatched to Governments in good time.

When such an extensive Report has to be drawn up in so short a space of time it naturally contains omissions. For these the Office makes its apologies, but it expresses the conviction that the material it has collected and analysed will be sufficient to enable the delegates to the Conference to obtain a clear idea of the problems involved in the reduction of hours of work and the solutions that can be adopted, and so share in drawing up the lists of points on which Governments should be consulted.

PART I

INDUSTRY, COMMERCE AND OFFICES

INTRODUCTION

The first Part of the Report on the Generalisation of the Reduction of Hours of Work is wholly concerned with industry, commerce and offices. It includes shops, hotels, restaurants and similar establishments, curative establishments, theatres and other places of amusement. Special regulations for these categories of establishment are dealt with separately in the various chapters.

This Part of the Report consists, first, of a documentary analysis of the law and practice at present in effect in the different countries, and, second, of conclusions commenting upon the possible content of international regulations, followed by a list of the points on which Governments might be consulted.

Chapter I, which deals with the structure of the regulations, contains a short description for each country summarizing the present stage of the hours of work regulations as well as the form in which these regulations are found.

Chapter II describes the scope of the various regulations distinguishing in the first place between categories of undertakings and occupations and in the second place between the categories of persons covered in and excluded from the regulations.

In Chapter III, dealing with hours of work, after an analysis of the definitions used to limit hours of work, the various methods of limitation used by national regulations are examined: namely, limitation by the day, by the week and by periods exceeding one week. In describing the normal hours of work laid down in the national regulations, distinctions are made between undertakings

working in a single shift and those operating several shifts, and in the latter case, a separate place is given to those undertakings whose work is necessarily continuous because of the nature of the work. The chapter ends with a study of the solutions found in the various national regulations to the problem of making up lost time.

Chapter IV is concerned with extensions to normal hours of work. The extensions are grouped according to whether they are provided for certain categories of work, in order to meet accidental circumstances, in case of lack of skilled workers or as a result of the fluctuating nature of certain activities. Overtime is examined specially, along with provisions concerning the suspension of the regulations or extensions of hours of work for reasons of State.

In Chapter V an examination is given to the various methods for supervision laid down in national regulations.

Chapter VI, which contains the conclusions to this Part of the Report, presents the various problems that are raised in connection with the adoption of international regulations for industry, commerce and offices. It concludes with a list of the points which the Office suggests to the Conference as the basis for the consultation of Governments.

CHAPTER I

THE DEVELOPMENT AND STRUCTURE OF NATIONAL REGULATION

A brief general account of the development and structure of the regulations governing hours of work is given below by way of introduction to the detailed study of the hours of work provisions dealt with in the subsequent chapters of this Report. It is followed by an account of the regulations in force at present in the countries covered by the Report.

A. — THE DEVELOPMENT OF REGULATION

The history of the regulation of hours of work in a broad sense dates back to the early days of the industrial era and may be said to have begun with the British Factory Act of 1819, which prohibited the employment in factories of children under 9 years of age and limited the hours of work of those under 16 to 72 in the week exclusive of meal times.

The subsequent growth of industrialism, resulting as it did in the emergence of a new class of factory labour, gradually led to the extension of hours legislation over a wider field. In 1844 the hours of adult women were regulated by law for the first time in British textile mills, and subsequent Factory Acts extended the scope and increased the protection afforded by hours limitations.

The next step in the development of hours of work legislation—that of extending the principle of regulation to adult male workers as well as to women and young persons—was taken by a French Act passed after the revolution of 1848. Later, a Factory Act which specifically regulated the hours of work of all adult labour was adopted by the Swiss Federal Government in 1877, limiting hours to 11 in the day with provision for reduction in unhealthy trades, for temporary exceptions by permission of the authorities, and for penalties to secure observance.

As industrialism progressed, the regulation and reduction of hours of work also proceeded, although at different rates in different occupations and different countries. After every advance the workers and all interested in their welfare looked forward to a further reduction, setting as their objective successively a 10-hour, a 9-hour, and finally an 8-hour day. These movements started among the artisans, chiefly those in the building trades, who were often strong enough to obtain some at least of their demands by direct negotiation. But in the long run other workers as well were benefited, and laws gradually crept into the statute books of various countries to improve the conditions of women and young persons, and also of men in unhealthy or particularly trying occupations, such as employment underground in mines, by reducing their hours of work and thus both safeguarding their health and increasing their leisure.

But although the demand for an 8-hour day recurred in every period of prosperity and the question of shorter hours was a frequent subject of national and even of international discussion among workers' organisations, philanthropists and those employers who realised the beneficial effects of shorter hours on the productivity of labour, legislative progress was slow. In the early years of the twentieth century the general position was that most of the hours of work legislation in force still applied only to women and young persons in factories or limited the working day in underground employment in mines, in unhealthy occupations, or in special branches such as railways. The legal limits set were high. The 48-hour week and 8-hour day had been obtained in certain trades by agreement and had been introduced here and there as a successful experiment by employers, but on the whole the average hours actually worked in the principal industrial countries were nearer 60 a week and 10 a day than 48 and 8. Moreover, legislation regulating the hours of salaried employees was practically non-existent, except in respect of shop assistants in some of the English-speaking countries, and here again the direct restrictions often applied only to women and children.

Hours of work legislation in its modern form may be said to date from the war of 1914-1918, which inaugurated a new phase in the statutory regulation of hours of work. The desire to improve the lot of working men and women, the experience gained during the war years of the effects of longer and shorter hours on the efficiency of the worker; and the rising productivity of industry due to technological progress—these and other factors combined to

bring to fruition in labour legislation some 70 years of agitation for an 8-hour day. The large number of hours of work Acts adopted both in European and Latin-American countries during the war or immediately afterwards have three notable characteristics. In the first place, they make general provision for an 8-hour day and a 48-hour week. Secondly, they cover both men and women. Thirdly, in the majority of cases they apply not only to manual workers but to salaried employees as well, or at least to certain groups of salaried employees, such as shop assistants, whose hours of work had hitherto been regulated, if at all, only by shop closing legislation or by enactments prescribing a minimum daily or weekly rest.

In the many countries which adopted new hours of work legislation about this time, and in others which followed their lead later, the consolidation of the 48-hour week, both in industry and in commerce, continued throughout the next few years. In some countries, however, the 48-hour week in industry has not yet been generally realised. Some Asiatic countries still have statutory limits of 10 or 11 hours a day.

Further, the development of hours regulation in commercial employment still lags behind that in industry. In some countries no salaried employees are yet covered by law, while in others the restrictions consist only in provisions limiting the opening and closing hours of the establishments concerned, and the hours permitted are still comparatively long.

While this phase is still developing, another has already begun and in a remarkably short space of time has made considerable progress—namely, the movement towards a further reduction of hours, embodied in the demand for a 40-hour week. This new phase differs from its predecessors in that, born suddenly in the depression of 1929 onwards, it was sponsored as warmly by some Governments as by the workers' organisations themselves. The movement was thus able to gain a footing almost immediately in legislation. This time the reduction of hours was first proposed as a special measure to remedy the acute unemployment of the depression and increase the purchasing power of the masses for the benefit of the whole community. It was, for instance, with this object in view that a standard 40-hour week with upward or downward variations for certain industries was introduced throughout industry in the *United States of America* by the codes of fair competition drafted under the National Industrial Recovery Act in 1933, and that in *Italy* a shorter week was established by collective agreements providing

for a 40-hour week in industry and a reduction in the current working day in commerce and other branches.

With the lifting of the depression, however, the movement entered on a further stage. The reduction of hours was no longer regarded as a special measure for spreading employment, but advocated as a permanent reform constituting the next step on the road of social progress. It was supported on the one hand on the ground that the reduction of hours of work was the logical remedy for technological unemployment, and on the other by the claim of the workers for a share in the increased productivity of their labour in the form of more leisure.

Although the National Industrial Recovery Act, which was the legislative basis of the 40-hour week in the *United States of America*, was invalidated on constitutional grounds in 1935, the Federal Government has kept the 40-hour week as the standard for employees within its jurisdiction, while the provisions of many of the codes have been voluntarily maintained in operation. The *French* general 40-hour week system introduced in 1936 was established as a social and economic factor in a permanent reorganisation of the country's industrial life, and the same is true of the 40-hour week legislation in *New Zealand*. In 1937 the *Italian* 40-hour week system, originally founded on agreements, was embodied in a Decree. In the *U.S.S.R.*, where the system of five working days followed by a day of rest is in operation, the new Constitution of 5 December 1936 lays down a "right to rest" which provides among other things for "the reduction of the working day to 7 hours for the overwhelming majority of the workers". In *Australia* a 44-hour week has been the standard working week in some States for a number of years and is gradually gaining ground throughout the Commonwealth, while certain trades in individual States have been granted a 40-hour week by award, either on the ground of the unhealthy or trying nature of the work or as a remedy for unemployment. Among them are the stone-masons, who in 1856 were the first trade to demand and secure an 8-hour day. In *Belgium* an Act of 1936 provides for the reduction of hours of work in industries or parts of industries in which work is carried on under unhealthy, dangerous or trying conditions.

A strong movement for the reduction of hours of salaried employees is also under way, but owing to the special characteristics of their employment and the less advanced stage of the regulations to which they are subject, the standard week proposed for some classes is as a rule longer than that sought for industry. The

Italian Decree, for instance, does not apply to commercial employees and the agreements simply provide for the reduction of daily hours by at least two, while in *New Zealand* a 44-hour week is provided for employees in shops and restaurants by the amended Shops and Offices Act of 1936.

This new drive for the reduction of hours of work has resulted not only in the amendment of existing hours legislation and the enactment of new measures, but in the development of new methods of regulation. Many of the States of the *United States of America* and of the *Canadian* provinces, which in the past had, generally speaking, confined their hours legislation to factories, to certain special branches such as mines and railways, or to women and young persons, have been obliged to look for new ways of introducing or extending the regulation of hours of work. In many cases they have found a solution of the problem not in direct and general statutory limitation, but, in accordance with their traditions, in the creation of statutory machinery for the negotiation by members of the separate industries of conditions of employment, including hours and wages, which may subsequently be given the force of regulations by the competent authority.

This system has encouraged organisation among the workers, and collective agreements have also spread very notably in the past few years. Nor has their extension been confined to the English-speaking countries. Other countries which already had a system of hours of work legislation have felt the need of some method of regulating more effectively industrial conditions as a whole. Collective bargaining has made headway and has had considerable influence on the regulation of hours of work. In certain countries, for instance, *Czechoslovakia*, where the proposed amendment of the existing legislation has met with difficulties, reduction of hours has been secured under collective agreements made in several important branches of industry.

To sum up, the present state of hours regulation in the different countries of the world exemplifies most of the stages of the general development of hours of work legislation as outlined in the previous pages. Whatever the standard reached, however, whether in the countries which have already adopted the 40-hour week or in those in which prevailing economic and social conditions have necessitated the application even of the 48-hour standard by gradual stages, improvements are steadily being effected. Countries just entering the industrial era now have the advantage over their predecessors in that they are already providing themselves with machinery

to ensure that the regulation of hours shall proceed hand in hand with industrial development without the long struggle of earlier times for the improvement of social conditions. And in countries with an established system of general hours regulation improvements are being effected either by extending the scope of the provisions to cover new classes of workers or by reducing the statutory limits fixed.

B. — FORMS OF REGULATION

The structure of the national regulations governing hours of work is influenced by historical, economic and other factors and therefore differs widely from country to country. A discussion of these factors is obviously outside the scope of the present Report, and the purpose of the present section is merely to attempt a rough classification and characterisation on general lines of the systems of regulation most commonly met with, illustrated by typical examples from different countries, by way of introduction to the description of national regulations given in the following section.

One general distinction may usefully be mentioned here, however, because it divides national systems of hours of work regulation into two main groups: those which rely mainly on legislation to regulate hours of work and those which, although they may place some statutory limitations upon hours, look to self-organisation in individual trades and industries to provide for the detailed regulation of hours in conjunction with other conditions of employment. The prototype of the latter group is *Great Britain*, where, except for women and young persons, hours of work are traditionally fixed by collective bargaining between the organised workers and employers; and the group includes, generally speaking, the majority of English-speaking countries as well as certain others where industrial organisation is firmly established. The first group, on the other hand, includes most of the continental countries of Europe and the Latin-American States.

Apart from this general distinction, methods of regulating hours of work comprise direct statutory limitation, which may be embodied in a number of different kinds of laws and regulations; regulation by statutory machinery such as arbitration authorities, trade boards, or industrial councils, usually involving a large measure of co-operation by employers and workers; voluntary regulation by collective agreement; and, where no collective form

of regulation exists, regulation by works or service rules, by custom or by private contract. These various methods are not as a rule found in isolation. Sometimes a mixed system of general regulation is in force, sometimes a statutory limitation for certain occupations or persons only, and sometimes several different systems co-exist for different branches or occupations.

§ 1. — Legislation

Legislation concerning hours of work now exists in practically all industrialised countries. Such legislation varies widely, however, in nature, in scope and in the limitations it imposes. It is classified below in three groups: legislation constituting a general system of hours regulation, legislation constituting a partial system of hours regulation, and legislation providing machinery for hours regulation¹.

1. LEGISLATION CONSTITUTING A GENERAL SYSTEM OF HOURS REGULATION

A large and growing number of countries have recognised the principle that the regulation of hours of work is a matter for direct

¹ The present Report is based on the legislation containing provisions concerning hours of work which, according to the Office's information, is in force in the various countries. Owing to the shortness of the time available for the drafting of the Report, however, it has not been possible to take account of the legislation of all the countries in every chapter.

In the case of countries in which there is no hours of work legislation or in which the legislation is completed by other forms of regulation, such as collective agreements, arbitration awards, collective rules, standards of employment, etc., representative examples have been chosen for inclusion in the Report.

Regulations in force in colonial or mandated territories have been excluded. Public administrative services (e.g. civil servants, post office, telephone and telegraph workers, etc.), the liberal professions and domestic services have also been excluded unless covered by the general legislation.

No reference is made to the employment of young persons, since the limitation of their hours of work constitutes a problem apart (Cf. "Children and Young Persons under Labour Law", Studies and Reports, Series I, No. 3, Geneva, 1935).

Provisions concerning the employment of women have been taken into consideration only where they are the sole form of hours of work regulations. In the case of the United States of America the State legislation governing the hours of work of women has been omitted owing to the number and complexity of the laws concerned. The subject is dealt with in a study of the legal status of women at work shortly to be published by the *International Labour Office* (Studies and Reports, Series I, No. 4).

Lastly, the legal provisions concerning the weekly rest, public holidays and shop closing have been omitted from the Report, since these are problems distinct from the limitation of hours of work proper, although closely allied to it.

State action and have instituted a system of hours regulation which, in theory at least, is capable of covering practically all paid employment. The broadest basis for hours regulation is found in those countries, for instance *Brazil*, *Mexico*, and the *U.S.S.R.*, in which the Constitution itself embodies certain fundamental principles concerning conditions of employment in general and hours of work in particular, principles which are subsequently applied by a Labour Code or by laws and regulations of various kinds. Otherwise, hours regulation is based on some comprehensive enactment which may take various forms, such as that of a Labour Code as in *France* (where the Forty-Hour Week Act of 21 June 1936 is incorporated in the Labour Code), *Turkey* and *Venezuela*, a Labour Act as in the *Netherlands* and *Germany*, an Hours of Work Act as in *Italy*, or an Eight-Hour Day or 48-Hour Week Act as in *Argentina*, *Belgium*, *Czechoslovakia*, *Finland* and *Spain*.

The methods of applying these general systems naturally vary from country to country. Generally speaking, the principle of regulation and the general limits of hours are embodied in an Act of the Legislature. The amount of detail contained in the Act is extremely variable, however, and problems of application may be solved in ways so diverse as virtually to defy classification.

In a few cases the basic measure itself contains all the necessary provisions and stands alone, without separate regulations. An example of this method is the Workers' Protection Act of *Norway*. Sometimes the Act is accompanied by a single set of administrative regulations, dealing both with the general interpretation of the Act and with particular problems of application, as in *Czechoslovakia* and *Italy*; in both these cases, however, the statutory provisions are supplemented by collective agreements. More often, problems of administration are solved by issuing, besides general regulations, separate regulations for different industries and occupations. In *Argentina* the Eight-Hour Day Act lays down general rules and is applied by two general Administrative Decrees and by a number of special Decrees for different branches such as hotels, hospitals, telephone, telegraph and wireless telegraph services. In *Brazil* there are separate Decrees for industry and commerce as well as for several special branches such as refrigerating plants. In *Poland* the Act contains detailed rules of general application, and provides for the issue of regulations for special classes by Order of the Minister, and several sets of regulations have accordingly been issued. In the *U.S.S.R.* general principles are laid down by Orders of the Central Executive Committee and Council of

People's Commissaries, and detailed regulations by a large number of Orders of the Labour Commissariat or General Council of Trade Unions.

Sometimes, as in *Belgium*, there are no general regulations but a series of Orders for special cases in which variations of the general rules are required. In *Germany* the place of special regulations is taken by collective rules issued for separate industries, trades or undertakings, by labour trustees or, in certain instances, by the labour inspectors or the Minister of Labour; in *Spain* by standards of employment drawn up by joint regional boards for separate trades and industries. Both these methods enable full allowance to be made for the peculiar needs of different branches. The same purpose is achieved by another method in *France*, where the Act is a law of principle requiring the issue of public administrative regulations for its application to individual trades and industries. These regulations are embodied in Decrees issued by the Council of Ministers after a very full consultation of representatives of the employers and workers concerned, and provision is made for the settlement of further matters by Order of the competent Minister. In Catalonia (*Spain*) the system for the application of the 40-hour week is practically identical, while a similar method although involving fewer sets of regulations is prescribed by the new Labour Act in *Hungary*.

To prevent misunderstanding, it may be useful to note three points with regard to these general systems of hours regulation. In the first place, the activities included in the scope of the general laws mentioned are not always covered by specific hours provisions, the important point for present purposes being the existence of the framework enabling the scope of actual hours limitation to be widened without raising questions of principle.

Secondly, the actual limitations of hours contained in the general laws and regulations are by no means always the same for all the classes of workers and employees covered, different limits often being set for different categories, such as manual workers and salaried employees, or workers in industry and those in commerce, or for special occupations and undertakings.

And thirdly, the fact that there is a general law or system for the regulation of hours of work does not preclude the existence of special measures, sometimes surviving from earlier times and independent of the general system, to meet the special requirements of particular branches. In several countries, including, for instance, *Austria*, *Norway* and *Portugal*, hours of work in bakeries are

regulated by a special Act. Hospitals, hotels and similar establishments are often dealt with by separate measures, as in *Germany*, where there is also an Act dealing with home work, and other miscellaneous branches under separate regulation include stone-cutters in the *Netherlands* and the diamond industry in *Belgium*.

2. LEGISLATION CONSTITUTING A PARTIAL SYSTEM OF HOURS REGULATION

In a number of countries there is no general uniform system of hours regulation. Direct statutory limitation of hours of work then exists only for certain undertakings, trades or classes of persons, or is confined to enactments which merely lay down the principle of a standard working day without any definite provision for its enforcement. This situation is found in a number of English-speaking countries, where the legislation is supplemented by other methods of regulating hours of work.

The field covered by measures of this type varies considerably. A number of the States in the *United States of America* have Acts which merely declare the standard working day, this limitation sometimes being confined to cases where the contract does not provide otherwise. Some countries have Acts regulating hours of work in industry only. These measures are often based on the definition of scope contained in the Hours of Work (Industry) Convention 1919, as in *Estonia* and *Colombia*, among other countries, or reproduce this definition with small variations, as in the case of the Hours of Work Acts of Alberta and British Columbia in *Canada* and the Conditions of Employment Act of *Ireland*.

To this group also belong the numerous Acts regulating employment in factories or in factories and shops, which are to be found not only in countries with an old-established legislation such as *Great Britain*, the *Australian States*, *India* and *Switzerland*, but in several countries where hours legislation is of more recent date, such as *Egypt* and *Japan*. It should be noted that the hours provisions of this type of legislation often relate only to women and young persons and do not cover adult males.

Special branches which are often covered by hours regulations in countries without a general system are mining and unhealthy or dangerous work of various kinds. A number of States or Provinces in *Australia*, *Canada* and the *United States*, and other countries such as *India* and *South Africa*, have laws setting a direct limit to hours of work in underground mines. Those of the States

of the *United States of America* often cover accessory undertakings for the refining of ores, such as smelting plants, as well. Unhealthy occupations as scheduled in the relevant Act are the only branches in which the hours of work of adult males are regulated in *Egypt*, and several State laws in the *United States of America* limit hours of work in compressed-air work. In *Belgium* an additional system of hours of work regulation, superimposed on the general 48-hour week scheme based on the Hours of Work Act of 1921, provides for the introduction of a shorter working week in unhealthy, dangerous and arduous occupations. In *Denmark* a law regulates hours of work only in factories with continuous processes.

Another form of partial regulation consists in regulations covering women and young persons only, whether in industry, in factories, or in factories and shops, or in certain kinds of factories such as textile mills. As already stated, Factories and Factories and Shops Acts, including those of *Australia* (Victoria, South Australia and New South Wales), *Great Britain*, *Egypt* and *Japan*, come under this head, and similar laws exist in the majority of the States in the *United States of America*.

Lastly, mention may be made of a special system of partial regulation in *Denmark*, where besides the Act concerning continuous processes already mentioned the only form of hours legislation at present in force is an Act to prohibit overtime beyond the hours fixed by collective agreement.

3. LEGISLATION PROVIDING MACHINERY FOR HOURS REGULATION

In an increasing number of countries, where there is no general system of direct statutory limitation of hours, permissive legislation has been introduced to create machinery through which hours of work may be fixed industry by industry. This method constitutes an intermediate system between direct statutory regulation and complete non-interference by the State. In many cases the primary object of the measures concerned is the fixing of minimum wages, and in general it is characteristic of this form of regulation that it seeks to regulate hours of work in conjunction with wages and other conditions of employment so that the limits fixed simply represent standard hours, which may be exceeded on payment of overtime. This machinery is sometimes the only official form of hours regulation and sometimes co-exists with a partial system of direct statutory limitation. In a few cases, for instance in some of the *Canadian Provinces* and States of the *United States of*

America, power is given to an authority to issue regulations concerning hours of work for certain classes of undertakings or workers. In *Australia* and *New Zealand*, where the regulative agencies are arbitration courts or wages boards, their awards must conform to limits set by statute for certain branches and in some cases (e.g. Queensland and New Zealand) the Arbitration Act itself lays down the rules to be observed in making awards. In *Great Britain* such legislation takes the form of Trade Board Acts authorising the Minister to set up trade boards for unorganised trades. In several *Canadian* Provinces it consists in Industrial Standards Acts or other enactments giving power to an authority to call a conference of workers and employers in any trade and issue regulations concerning hours of work and wages on the basis of the findings. The various instruments of regulation, i.e. awards, schedules, compulsory agreements, etc., are mentioned below under their appropriate headings.

§ 2. — Arbitration Awards

Industrial arbitration awards forming the culmination of a system of collective bargaining are the main instruments of hours regulation in *Australia* (Federal Awards; State Awards in New South Wales, Queensland and Western Australia) and *New Zealand*. These awards, which deal with conditions of employment in detail, regulate hours of work in conjunction with wages and other conditions within the limits of statutory provisions contained in Factory and Shops Acts and often in accordance with standards prescribed in the Arbitration Acts themselves, and are delivered either by industrial arbitration courts or by special boards for different trades and industries. Federal Awards, delivered in inter-State disputes in *Australia*, may apply to members of the Federal unions concerned in any State. Other awards may be State-wide in scope or may apply to specified localities; in some cases, e.g. Western Australia, they may be made the common rule throughout the trade in that area.

§ 3. — Enforceable Decisions of Joint Bodies

In some countries standard conditions of employment, including hours of work and wages, may be fixed by the decisions of joint or tripartite bodies which are subsequently given the force of regulations by the competent authority. Sometimes these bodies

are part of a direct statutory system of hours regulation, as in *Italy* and *Spain*, and sometimes they are set up under legislation of the type mentioned under § 1, 3, above and operate in conjunction with a partial system of direct statutory regulation.

The decisions may take the form of trade or wages board determinations (*Australia*: Victoria and Tasmania; *Great Britain*), standards of employment (*Spain*), wages and hours schedules (*Canada*: Alberta, Ontario and Saskatchewan), industrial codes (*U.S.A.*: Wisconsin), or collective agreements which are either automatically binding on the whole group covered, as in *Italy*, or may be declared binding on application by one or both parties as in *South Africa* and in the *Canadian* Province of Quebec.

§ 4. — Collective Agreements

Collective agreements negotiated on a purely voluntary basis also constitute an important method of hours regulation, which has gained considerable ground in the past few years. In *Great Britain* and the *United States*, for instance, collective agreements are the principal method of hours regulation. In the *Scandinavian* countries, too, collective agreements play an important part in regulating hours of work.

In the countries mentioned above there is no provision for making the terms fixed by agreements enforceable. Elsewhere, however, attempts have been made to secure that certain clauses in the agreements, including those concerning hours and wages, should be made binding throughout the occupation and area covered. This practice has become increasingly common of late, measures to this effect having recently been introduced, for instance, in *Czechoslovakia*, *France*, the *Netherlands* and *Poland*.

It is important to remember that collective agreements, like the awards and decisions of joint bodies mentioned above, are often not primarily concerned with the limitation of hours but with the fixing of minimum wages. Where regulation is by one of these methods, therefore, ordinary hours of work are the hours for which the specified rate of wages is payable, and unless it is restricted by a clause in the agreement, a statutory limitation, or a special enactment such as the *Danish* Act prohibiting overtime, the amount of overtime which may be worked is theoretically unlimited provided that the employer is prepared to pay the rate prescribed for it. This is responsible for the fact that in some cases collective

agreements are more concerned with laying down a guaranteed minimum number of hours' employment as a safeguard against short time than with fixing a strict daily or weekly maximum. On the other hand, however, the standard hours fixed by agreements are often shorter than those fixed by law in countries in which both methods of regulation co-exist.

§ 5. — Other Forms of Regulation

A special form of regulation found in *Japan* consists in agreements made between employers to limit hours of work in small undertakings not covered by the Factory Act.

Where no form of collective regulation, either compulsory or voluntary, exists, hours of work are regulated by works or service rules, by individual contracts of employment, or by local custom.

C. — THE REGULATIONS IN FORCE¹.

Albania. — An Act of 19 May 1936² regulates the hours of work of women and children in industry.

Argentina. — An Act of 12 September 1929 laying down general rules concerning the eight-hour day³ applies to persons employed in all public and private undertakings. General Administrative Decrees issued under the Act on 11 March 1930 and 16 January 1933⁴ provide for the issue of separate regulations for industries or occupations in respect of which special provisions are necessary (intermittent work, permanent or temporary exceptions, etc.). Such regulations have been issued for hotels and restaurants⁵, hospitals and other similar establishments in the Federal Capital⁶, theatres and cinemas⁷, telephone, telegraph and wireless telegraph services, and gas and electricity services⁸.

Australia. — Hours of work are regulated by a combination of legislation, arbitration machinery and collective bargaining, the system differing from State to State. Except for Commonwealth employees,

¹ In the notes to the following pages, the letters *L.S.* refer to the *Legislative Series* issued by the International Labour Office, and the letters *B.B.* to the Bulletin of the former International Labour Office at Basle.

² *Fletorje Zyrtare*, 1936, No. 68, p. 1.

³ *L.S.*, 1929, Arg. 1 (A).

⁴ *L.S.*, 1930, Arg. 1; 1933, Arg. 1.

⁵ Decree of 29 September 1936; *Boletín Oficial*, 1936, No. 12681, p. 355.

⁶ Decree of 4 August 1937; *ibid.*, 13 August 1937. No. 12925, p. 9793.

⁷ Decree of 21 June 1935; *ibid.*, 15 July 1935, No. 12316, p. 561.

⁸ *L.S.*, 1930, Arg. 3 C and D.

the legal regulation of hours of work in Australia is within the jurisdiction of the separate States. Factories or Factories and Shops Acts in all States¹ limit hours of work and overtime for women and young persons in factories; those of Western Australia and Tasmania cover adult males as well. In Queensland, Victoria and Western Australia these Acts also fix limits to hours of employment for all shop assistants; in New South Wales and Tasmania only for women and young persons in shops. Mines Acts contain hours of work provisions in Queensland, Victoria and Western Australia².

Apart from this legislation, however, provision is made by arbitration or wage board Acts for the detailed regulation of hours, wages and other conditions of employment in all callings by awards of industrial boards, wages boards, and arbitration courts. In most States the latter have wide powers to deal with industrial matters on their own initiative or on reference by the Minister, as well as on application by employers' or workers' organisations, and they are, in fact, the main agencies in regulating hours of work. The Commonwealth Arbitration Court has jurisdiction in industrial matters extending beyond the boundaries of a single State. Its awards are delivered on an occupational basis, however, and do not necessarily apply throughout the Commonwealth, but to members of the unions parties to the proceedings in the employment of members of employers' associations or named employers in any State. Under certain conditions they may be made the common rule for the occupation within a specified area. In case of conflict, Commonwealth awards prevail over awards of State tribunals, and may even override the provisions of State legislation.

In New South Wales standard hours are declared from time to time by the Industrial Commission, but the Industrial Arbitration Act³ lays down certain minimum conditions to which, unless they conflict with the declaration of the Commission, all agreements and awards under the Act must conform. In Queensland a similar system is in force under the Industrial Conciliation and Arbitration Act 1932⁴, standard hours and conditions in this case being laid down in the Act itself. Western Australia and South Australia also have machinery of the same kind, but without the provision of minimum standards in the Act. In Victoria and Tasmania there is no system of arbitration proper, but the statutory provisions concerning hours of work are supplemented by the determinations of wages boards, which have been set up for the majority of industrial and commercial callings.

It may be noted that the hours of work fixed by these various bodies are the hours for which the daily or weekly minimum wage is payable. In many cases they are shorter than the hours fixed directly by legis-

¹ *New South Wales*: Factories and Shops Act, 1912-1936 (*B.B.*, 1915, pp. 264 and 286; *L.S.*, 1936, Austral. 3). *Queensland*: Factories and Shops Act, 1900-1922. *Victoria*: Factories and Shops Act, 1929-1934 (*L.S.*, 1929, Austral. 13; 1934, Austral. 11). *Western Australia*: Factories and Shops Act, 1920-1932. *South Australia*: Industrial Code, 1920 (*L.S.*, 1926, Austral. 1.) *Tasmania*: Factories Act, 1911 (*B.B.*, 1913, p. 456).

² *Queensland*: Mines Regulation Act, 1910 (*B.B.*, 1915, p. 287). *Victoria*: Mines Act, 1928 (*L.S.*, 1929, Austral. 19). *Western Australia*: Mines Regulation Act, 1906-1915.

³ Industrial Arbitration Act, 1912 (*L.S.*, 1927, Austral. 7), as subsequently amended on various occasions, in particular by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930 (*L.S.*, 1930, Austral. 12) and the Industrial Arbitration Amendment Act, 1932 (*L.S.*, 1932, Austral. 5).

⁴ *L.S.*, 1933, Austral. 1.

lation; on the other hand, however, except where some limitation is laid down by legislation or in the award, overtime may be freely worked subject to the payment of penalty rates.

Collective agreements are widespread in most occupations. In those States in which an arbitration system is in force registered collective agreements are enforceable in the same way as awards, and in some cases may be made the common rule in the industry or calling concerned.

Austria. — The hours of work both of wage earners and of salaried employees in industrial and other undertakings are regulated by the Eight-Hour Day Act of 17 December 1919¹. A series of administrative instructions and orders have been issued from time to time authorising exceptions to the general provisions for different industries and employments. A special Act of 3 April 1919 as subsequently amended² regulates hours of work in bakeries, while hours of work in mines are limited by an Act of 28 July 1919³. Collective agreements exist in some branches of activity; if concluded by recognised associations they are legally binding on all members of the occupation concerned.

Belgium. — The Eight-Hour Day Act of 14 June 1921⁴ is a general measure applying to all the activities covered by this Report. Exceptions for different types of work, industries and undertakings (seasonal work, intermittent work, work on materials liable to deterioration, etc.) are provided for in the Act and are applied by Royal Orders. A number of such Orders have been issued at various times laying down special provisions for specified industries, branches of commerce, offices, etc. An Act of 15 June 1937⁵ extended the Eight-Hour Day Act to the nursing staff of public and private hospitals and clinics.

Under an Act of 9 July 1936⁶ provision is made for the progressive reduction of hours of work by Royal Order to a minimum of 40 in the week in unhealthy, dangerous or arduous occupations, after consulting the joint committee for the branch concerned. Orders under this Act have been issued for underground workers in metal mines and for claypits. A separate Order of 30 March 1936⁷, independent of the general hours legislation, has established the 40-hour week in the diamond industry.

Collective agreements exist in a few branches. They may fix terms more favourable than the provisions of the law, and the conditions fixed by agreement are sometimes given the force of regulations by the Minister. An important recent agreement covering 30,000 workers provides for a reduction of hours in the textile industry.

Bolivia. — There is no hours legislation applying to manual workers, but the hours of work of salaried employees are regulated by an Act of 21 November 1924 and a Decree of 16 March 1925⁸.

Brazil. — Hours of work are regulated in accordance with fundamental rules laid down by the Constitution by Federal Decrees of 4 May 1932⁹.

¹ L.S., 1920, Aus. 12.

² L.S., 1919, Aus. 6; amendments, L.S., 1933, Aus. 4; 1934, Aus. 9.

³ L.S., 1919, Aus. 11.

⁴ L.S., 1921, Bel. 1.

⁵ *Moniteur Belge*, 21-22 June 1937, p. 3883.

⁶ L.S., 1936, Bel. 11.

⁷ *Moniteur Belge*, 7 April 1937, p. 2316.

⁸ L.S., 1924, Bol. 2; 1925, Bol. 1.

⁹ L.S., 1932, Braz. 3.

and 22 March and 29 October 1932¹ for industry and commerce respectively. Hours of work in the refrigerating industry are regulated by a special Decree of 3 July 1934², and a series of Decrees have also been issued for various classes of establishments or employees requiring special treatment—i.e. bakeries, pharmacies, hotels, banks, hairdressers' shops, places of amusement, wireless telegraph and telephone services³.

Collective agreements may fix overtime rates and may also extend normal hours of work within limits set by the law, and upon application by the parties the Minister of Labour may declare such agreements binding on the industry within a specified area.

Bulgaria. — Hours of work are regulated by a general Act of 15 July 1917, as subsequently amended at various dates⁴, concerning hygiene and safety in employment, which applies to industry, handicrafts, commerce, building and transport. A Royal Decree concerning the 6 and 8-hour day was issued on 24 June 1919⁵. Regulations based on the general Act have been issued to meet the special requirements of the building industry⁶, continuous processes and seasonal industries⁷, and commercial establishments⁸.

Collective agreements providing for the application of the hours-of-work legislation may be entered into under an Act of 22 September 1936.

Canada. — Jurisdiction in matters of labour legislation lies with the provincial Governments, a Limitation of Hours of Work Act passed by the Dominion Parliament in 1935 to implement its ratification of the Hours of Work (Industry) Convention 1919 having been declared invalid in January 1937. The only Dominion enactment at present affecting hours of work in general is the Fair Wages and Hours of Labour Act, 1935⁹, which fixes daily and weekly limits of hours on work done under Government contract or with Government aid. Dominion civil service regulations under the Civil Service Act¹⁰ regulate the hours of work of postal employees.

The system of regulation varies from one province to another, but legislation directly limiting hours of work is the exception rather than the rule. Alberta¹¹ and British Columbia¹² are the only provinces having general Hours of Work Acts covering a wide range of undertakings and occupations which set direct limits to the hours of work of all the persons employed. New Brunswick, Ontario, Quebec and Saskatchewan have legislation limiting the hours of work of women and young persons only in factories, and in the case of Ontario and Quebec, in shops as well. Mines Acts place restrictions on hours in British Columbia, New Brunswick, Ontario and the Yukon Territory, and there is legislation applying especially to fire brigades in British Columbia, Nova Scotia, Ontario

¹ *L.S.*, 1932, Braz. 2, A and B; amendment, 1933, Braz. 1.

² *L.S.*, 1934, Braz. 1, D.

³ *L.S.*, 1933, Braz. 1, B-G; 1934, Braz. 1, B, C, E and F.

⁴ For consolidated text with amendments up to 1930, cf. *L.S.*, 1932, Bulg. 3, B.

⁵ *Drjaven Vestnik*, No. 68, 30 June 1919.

⁶ Order of 4 May 1935; *L.S.*, 1935, Bulg. 6.

⁷ Legislative Decree of 5 September 1935; *L.S.*, 1935, Bulg. 7, B.

⁸ Decree of 30 May 1936; *L.S.*, 1936, Bulg. 2.

⁹ *L.S.*, 1935, Can. 10.

¹⁰ Revised Statutes of Canada, 1927, Ch. 22.

¹¹ *L.S.*, 1936, Can. 5.

¹² *L.S.*, 1934, Can. 8.

and Saskatchewan. Hours are also restricted in some exhausting or unhealthy occupations. In British Columbia for instance, hours of work are limited in the metallurgical industries by the Labour Regulation Act and in compressed air work by regulations issued under the Workmen's Compensation Act ¹. In Ontario a special Act fixes hours and wages on Government contract work. A Quarries Act in Alberta and a Mines Act in Manitoba give power to an authority to fix hours by regulation, but there is no record of such regulations having been issued.

Except in these and a few similar cases, hours of work are not regulated directly by law but by machinery set up in most of the provinces under recent enactments to provide for the fixing of standard hours and wages industry by industry. Industrial Standards Acts in Alberta ² (1935), Ontario ³ (1935) and Saskatchewan ⁴ (1937) provide for the convening by the Minister of conferences of employers and workers in any industry or occupation to negotiate schedules fixing wages and hours of work. If the Minister considers that the employers and workers are sufficiently representative of the industry concerned, he may declare the schedules binding within a specified area for a period not exceeding twelve months. These schedules thus provide for the regulation of conditions but not necessarily for their uniformity, since they may apply to small groups of workers and small areas between which conditions may vary widely. Similar systems exist under enactments of various kinds in Manitoba, New Brunswick and Nova Scotia. Quebec has a Workmen's Wages Act ⁵, passed in 1937 to replace a Collective Labour Agreements Extension Act of 1934 (the machinery of which it maintains), providing for joint committees to regulate conditions in different industries and occupations and empowering the Governor-General in Council to declare any collective agreement binding on all employers and employees in the same class of employment in a given district. The Fair Wage Act ⁶ 1937, of the same Province applies to all employees who did not or could not avail themselves of the provisions of the Workmen's Wages Act and provides for the fixing of hours and wages by a board, an Order having been issued by this board on 28 December 1937. Most of these enactments enable hours to be regulated in any industry or occupation, but their effective scope depends in practice on the schedules actually issued, and these only cover a limited field at present.

Chile. — The hours of work both of manual workers and of salaried employees are regulated by the Labour Code of 13 May 1931 ⁷. Provisions concerning the calculation of overtime pay for salaried employees are contained in regulations of 18 December 1933 ⁸ to apply the hours sections of the Code. A Decree of 10 January 1933 ⁹ regulates hours of work in Government departments and their auxiliary services.

China. — The regulations governing hours of work consist of a Factory Act of 30 December 1929 and regulations of 16 December 1930, as

¹ Revised Statutes of British Columbia, 1924, Ch. 126 and Ch. 278.

² Statutes of Alberta, 1935, p. 185.

³ L.S., 1935, Can. 3.

⁴ Statutes of Saskatchewan, 1937, Ch. 90, p. 504.

⁵ L.S., 1937, Can. 3.

⁶ L.S., 1937, Can. 13.

⁷ L.S., 1931, Chile 1.

⁸ *Diario oficial*, 24 January 1934, p. 252.

⁹ *Diario oficial*, 18 January 1933, p. 221.

amended in 1932¹. Owing to the difficulty of applying these measures immediately, the Central Labour Inspection Office drafted a scheme for their gradual application by five stages. According to the information available, the third of these stages, which partly covers hours regulation, has not yet been reached.

Colombia. — A Decree of 26 April 1934² to approve an Order of the General Labour Office issued in pursuance of the ratification of the Hours of Work (Industry) Convention 1919 lays down rules to regulate hours of work in industrial undertakings, both public and private, and gives power to the General Labour Office to issue the necessary regulations and schedules of exceptions. An Act of 20 November 1934³ respecting the granting of certain rights to salaried employees lays down a general limitation of 8 hours for the working day of salaried employees.

Costa Rica. — An Eight-Hour Day Decree of 16 August 1920, supplemented by a Decree of 14 August 1929⁴, applies to all workers.

Cuba. — A general Decree of 19 September 1933 applied by regulations of 19 October 1933⁵ lays down the principle of an 8-hour day in all callings. The regulations have been amended and completed on certain points by subsequent Decrees and decisions, a Resolution of 23 September 1936 having applied the Act to hospitals and similar establishments. Two Acts of 3 May 1935⁶ also contain provisions concerning hours of work in shops.

Czechoslovakia. — Hours of work are regulated by a general and detailed 8-hour day Act and regulations of 19 December 1918 and 11 January 1919⁷ which apply to all employed persons, both wage earners and salaried employees, whether in public or private undertakings, and contain special provisions for specified industries and occupations.

Collective bargaining also plays a considerable part in regulating hours of work in all activities. The law leaves certain points, such as the averaging of hours and overtime rates, to be settled by collective agreements. The agreements in many cases fix hours lower than the statutory limits, and, under a recent Legislative Decree of 26 June 1937, the terms of representative collective agreements may be made binding on all undertakings in a specified area or activity.

Denmark. — Broadly speaking, hours of work are regulated solely by collective bargaining and private contract. The only general statutory limitation is contained in an Act of 7 May 1937⁸ to prohibit overtime beyond the normal hours fixed by collective agreement both in industry generally, including transport, building and quarrying, and in commercial establishments, offices and banks, hotels and restaurants. For workers engaged in continuous processes an Act of 12 February 1919⁹ limits hours of work to eight in the day.

¹ *L.S.*, 1932, Chin. 2.

² *L.S.*, 1934, Col. 2.

³ *L.S.*, 1934, Col. 1.

⁴ *L.S.*, 1920, C.R. 1; 1929, C.R. 1.

⁵ *L.S.*, 1933, Cuba 4; amendment, 1934, Cuba 1 B.

⁶ *L.S.*, 1935, Cuba, 6

⁷ *L.S.*, 1919, Cz. 1, 2 and 3.

⁸ *L.S.*, 1937, Den. 3.

⁹ *L.S.*, 1919, Den. 1; amendment 8 August 1929, *L.S.*, 1929, Den. 3.

Collective agreements are in force in certain branches of industry and also for office employees.

Dominican Republic. — Hours of work in industrial and commercial undertakings are regulated by an Act of 21 June 1935¹ prescribing a maximum 8-hour day and 48-hour week.

Ecuador. — The hours of work of all manual workers and salaried employees are regulated by an Act of 6 October 1928, amended on 20 July 1936². A Decree of 13 November 1934³, which establishes a compulsory weekly half-holiday, has the effect of reducing hours to forty-four in the week. In addition, a Decree of 13 October 1930⁴ prescribes a 44-hour week in administrative departments, while a general Act concerning banks includes certain provisions concerning hours of work.

Egypt. — The hours of work of women in industry and commerce are regulated by an Act of 10 July 1933⁵. For adult males, hours are regulated only in specified industries of an exhausting or unhealthy nature by an Act of 5 December 1935⁶.

Estonia. — Hours of work in industry, as defined by the Hours of Work (Industry) Convention, are regulated in detail by an Act of 10 July 1931, amended on 9 April 1937⁷. A few minor points—for instance, regulation of continuous processes and breaks—are settled by Order of the Minister. There is no legislation concerning the hours of work of employees in commerce and offices except an Order relating to pharmacies of 10 March 1936⁸ and an Order of 14 September 1933 concerning the hours of work and rest periods of employees in local post offices⁹.

Finland. — A general Eight-hour Day Act of 27 November 1917, amended on 14 August 1918¹⁰, covers all workers and salaried employees in industrial and commercial undertakings. The Act provides, however, that where, for technical, seasonal or other reasons, its provisions cannot be applied the Senate may grant exemptions for a duration of not more than twelve months at a time, and a number of industries (timber industry, rural building, post office, etc.) have been constantly excluded from the operation of the Act by orders renewed annually under this section. Provisions for employees in shops and offices are also contained in an Act of 24 October 1919, amended on 8 December 1934¹¹ concerning conditions of employment in commercial establishments and offices. An Act of 20 January 1928¹² regulates employment in bakeries, and hours

¹ *L.S.*, 1935, Dom. 1.

² *L.S.*, 1928, Ec. 2., 1936, Ec. 1.

³ *L.S.*, 1934, Ec. 2.

⁴ *Registro Oficial*, 21 November 1930; No. 454, p. 1.

⁵ *L.S.*, 1933, Egypt 2.

⁶ *L.S.*, 1935, Egypt. 1.

⁷ *L.S.*, 1931, Est. 5; *Riigi Teataja*, 12 April 1937, No. 29.

⁸ *L.S.*, 1936, Est. 2.

⁹ *Riigi Teataja*, 26 September 1933, No. 76.

¹⁰ *Suomen Asetuskokaelma*, 1917, No. 103; *B.B.*, 1918, p. 213.

¹¹ *L.S.*, 1920, Fin. 2; 1934, Fin. 4.

¹² *L.S.*, 1928, Fin. 1.

of work in administrative offices are governed by an Order of 29 December 1922 ¹.

France. — The hours of work of both wage-earning and salaried employees are regulated by an Act of 21 June 1936 ², incorporated in the Labour Code, to introduce a 40-hour week in industrial and commercial undertakings of all kinds and to fix hours of work in underground mines. This Act lays down the principle of a 40-hour week, providing for its application to different occupations, industries or classes of occupations throughout France or in any single region, by decrees issued by the Council of Ministers after consulting the representatives of employers' and workers' organisations concerned. The decrees issued ³ after exhaustive discussion by joint committees representing the employers and workers in the branch concerned and by the trade sections of the National Economic Council now cover practically all industrial, commercial, handicraft or co-operative establishments or dependencies thereof, whatever their nature, whether public or private, secular or religious, even if they are carried on for purposes of vocational instruction or are of a charitable nature, and including public hospitals and homes and lunatic asylums. Four recent decrees ⁴ of more general bearing, designed to render the system more flexible, relate to the making up of lost time both in seasonal and in non-seasonal trades and industries and to exceptions on account of shortage of skilled labour and in key industries, especially the production of mechanical and electrical equipment. Points of detail not fixed by the decrees are dealt with by Orders of the Minister.

Collective agreements have become widespread during recent years and supplement the statutory provisions on certain points connected with hours of work. Agreements between representative organisations may be made binding by the Minister on all employers and workers in the occupation and within the area concerned.

Germany. — General provisions for the regulation of the hours of work of all wage-earning and salaried employees are laid down by an Hours of Work Order of 26 July 1934 ⁵ issued under the National Labour Act of 20 January 1934 ⁶. The main instruments for the detailed regulation of hours of work, however, are collective rules issued under the Labour Act by labour trustees after consulting a committee of experts. In some cases former collective agreements have been transformed into collective rules. The rules constitute binding minimum conditions for the occupations they cover. They may apply to the whole industry concerned throughout Germany (e.g. in the building, shipbuilding, and boot and shoe industries), or to an industry, branch of industry or occupation in a specified area, or even to a single undertaking. Under certain circumstances the collective rules may vary the provisions of the law. Works rules, compulsory in all large undertakings, regulate starting and finishing times and breaks.

¹ *Finlands Författningssamling*, 1922, No. 325, p. 1247.

² *L.S.*, 1936, Fr. 8.

³ Owing to the large number of these decrees it is impossible to give a complete list here. Summaries of the Decrees have appeared in *Industrial Labour Information*, and the full text of those applicable to the most important branches of activity are published in the *Legislative Series*.

⁴ Decrees of 21 December 1937. *Journal Officiel*, 26-28 December 1937.

⁵ *L.S.*, 1934, Ger. 13.

⁶ *L.S.*, 1934, Ger. 1.

Certain branches of activity with special requirements are regulated by separate enactments. Home work is regulated by an Act of 23 March 1934¹. An Act of 29 June 1936² regulates hours of work in bakeries and confectioners' shops and an Order of 13 February 1924³ applies to institutions for the care of the sick. Lastly, an Act of 6 December 1935⁴, concerning materials for spinning, affects hours of work in the textile industry through the rationing of raw materials.

Great Britain. — Hours of work in Great Britain are fixed for the most part by collective bargaining. The hours of work of adult males are not limited by law, except in the mining industry, in certain dangerous or unhealthy industries or processes and in necessarily continuous operations in automatic sheet-glass works. Hours of work of women and young persons are regulated by the Factories Act of 1937 and by the Employment of Women, Young Persons and Children Act of 1920, as amended by the Act of 14 July 1936⁵, and in mines by mining legislation. Hours of work in shops are not regulated by law except in so far as they are affected by legislation concerning shop closing and the Saturday half-holiday.

A trade board system exists under the Trade Board Acts of 1909 and 1918, which provide that the Minister may set up a trade board to fix normal hours of work and wages in any trade in which he considers that no adequate machinery exists for that purpose; the Orders embodying the decisions of the boards are binding throughout the trade concerned. The trade boards at present in operation cover a variety of trades, mostly of secondary importance. The hours fixed by the boards, however, are merely the weekly or daily hours beyond which overtime rates must be paid and do not constitute a statutory limitation.

Since 1919, the system of collective agreements has widely developed. In a letter which the Secretary to the Minister of Labour addressed to the Secretary of the Cabinet as early as 22 July 1921, it was shown that the collective agreements and the Coal Mines Acts covered 10 to 12 million workers in the United Kingdom, i.e. about 70 to 80 per cent. of the total employed population, and practically all those persons employed in industrial undertakings, including engineering, shipbuilding, mines, railways, docks, the textile industry and the building industry. In commerce collective agreements are less general. Agreements may be national in scope, or may apply to particular areas. In certain industries they are negotiated by voluntary joint industrial councils. There is no provision for making the hours conditions they fix legally binding and obligatory on non-parties.

Greece. — Hours of work are regulated under a Royal Decree of 25 August 1920, issued after ratification of the Hours of Work (Industry) Convention, 1919, to consolidate an Act of 1911 concerning the health and safety of workers and hours of work, which authorised the Government to fix hours of work industry by industry. A Decree of 30 July 1932⁶ codified and standardised the provisions issued for various industries and by August 1937 a number of decrees promulgated at various dates had

¹ L.S., 1934, Ger. 3.

² L.S., 1936, Ger. 1.

³ L.S., 1924, Ger. 2.

⁴ Reichsgesetzblatt I, 7 December 1935.

⁵ L.S., 1920, G.B. 9, 1936, G.B. 3, 1936, G.B. 1.

⁶ L.S., 1932, Gr. 2.

extended the 8-hour day over the whole field of industry. Hours of work in commercial establishments and offices are regulated by a Decree of 8 April 1932 ¹, which limits individual working hours in some establishments and fixes the opening and closing times in others. Various amendments to this Decree have since further restricted or reduced hours for certain categories.

A Decree of 27 August 1932 regulates the hours of work of customs employees ².

Guatemala. — General rules to regulate the hours of work of wage-earning and salaried employees in commercial and industrial undertakings are laid down by the Labour Act of 30 April 1926 ³, which prescribes an 8-hour day and a 48-hour week and provides for the issue of administrative regulations.

Haiti. — An Act of 10 August 1934 ⁴ to regulate employment provides for an 8-hour working day and contains some other provisions concerning hours of work.

Honduras. — The constitution of Honduras, promulgated by a Decree of 10 September 1924 ⁵, lays down the principle of a maximum 8-hour day for all wage earners and salaried employees.

Hungary. — Some restrictions on the hours of employment of women and young persons are embodied in an Act of 12 January 1928 ⁶ and an Order of 30 December 1930 ⁷, but the hours of work of adult males generally have not been subject to statutory regulation in the past. Under an Order of the Council of Ministers of 26 June 1935 ⁸, giving provisional powers to the competent Minister to fix wages and hours of work in certain industries on the basis of a 48-hour week, Orders have been issued in respect of several industries, including the printing, boot and shoe, textile, woodworking, upholstery and flour-milling industries ⁹. This provisional system has now been supplanted by a new Act of 29 July 1937 ¹⁰ concerning the contract of employment, which lays down general rules applicable to all employed persons in industry and commerce, and empowers the competent Minister to put the Act into force, if necessary by stages, in different industries. The Orders previously issued remain in force, and further Orders are now in preparation with a view to extending the statutory regulations to all workers not yet covered.

India. — Hours of work are regulated in factories and mines by the Indian Factories Act, 1934 ¹¹, and the Indian Mines Act, 1923, amended with a view to reducing hours in 1935 ¹². A provincial Act of 1937 ¹³ for the

¹ *L.S.*, 1932, Gr. 3; amendment 1935, Gr. 2.

² *Efemeris tes Kyverneseos*, 1 September 1932, No. 294, p. 1929.

³ *L.S.*, 1926, Gua. 2.

⁴ *L.S.*, 1934, Haiti 2.

⁵ *L.S.*, 1924, Hond. 1.

⁶ *L.S.*, 1928, Hung. 1.

⁷ *L.S.*, 1930, Hung. 5.

⁸ *L.S.*, 1935, Hung. 3.

⁹ *L.S.*, 1936, Hung. 2 A, B, C; 1937, Hung. 2 and 3.

¹⁰ *L.S.*, 1937, Hung. 4.

¹¹ *L.S.*, 1934, Ind. 2.

¹² *L.S.*, 1923, Ind. 3; 1935, Ind. 3.

¹³ *L.S.*, 1937, Ind. 3.

Central Provinces regulates hours of work in factories which are not covered by the Indian Factories Act. There are no statutory regulations applicable to shops or offices.

Iran. — Hours of work are regulated only in the carpet industry, the most important industry in Iran, by a Decree of 17 December 1923¹, applying to Kirman and Baluchistan.

Iraq. — The Labour Act of 25 April 1936² applies to industrial undertakings, including mines and quarries. The Act lays down provisions concerning rest periods, and empowers the Council of Ministers to fix hours of work wherever necessary.

Ireland. — Hours of work are mainly regulated by the Conditions of Employment Act 1936³, a general measure which covers both male and female workers in industrial work, including manufacturing industry, building and quarrying. Regulations on various matters, including the variation of hours of work, have been issued by the Minister under wide general powers granted to him by the Act. There is no statutory regulation of hours of work in shops and offices except such as results from shop-closing regulations.

The United Kingdom Trade Boards Acts have been maintained in operation in Ireland, and trade board Orders are in force at present in 16 trades.

Collective agreements are widespread and sometimes fix hours below the statutory limits. The Conditions of Employment Act provides that representative collective agreements may be registered with the Minister and thereupon become binding in the trade and within the area concerned.

Italy. — The general legislation regulating hours of work in Italy consisted until 1937 of a Legislative Decree of 15 March 1923 and a Royal Decree of 10 September 1923⁴ to limit the hours of work of wage-earning and salaried employees in industrial and commercial undertakings of all kinds to 8 daily and 48 weekly. In 1934, however, a 40-hour week was introduced provisionally in some 60 industries by collective agreements concluded in pursuance of a general agreement between the National Fascist Confederations of manufacturers and of industrial workers. The reduction was placed on a permanent basis by a new inter-confederal agreement concluded in the following year, and was recently embodied in legislation by a Royal Legislative Decree of 29 May 1937⁵. Employees in commercial establishments, offices and banks are still covered by the 1923 Act and by agreements concluded in accordance with the inter-confederal agreement mentioned above, since the new Act applies only to activities of an industrial nature.

Schedules⁶ issued under the 1923 Act specifying the occupations excluded from the hours provisions and the industries in which an extension of daily and weekly hours is allowed remain provisionally in force under the new Decree. In many cases the hours of the excluded

¹ L.S., 1923, Per. 1.

² L.S., 1936, Iraq 2.

³ L.S., 1936, I.F.S. 1.

⁴ L.S., 1923, It. 1. and 7.

⁵ L.S., 1937, It. 3.

⁶ L.S., 1923, It. 7 C and D.

categories are regulated by collective agreements which since 1934 have also provided for a reduction of hours.

Collective agreements exist for the great majority of occupations and are binding on all members of the occupation within the area concerned, whether members of the trade association or not. They may regulate various points in connection with hours of work, including the making up of lost time, the definition of preparatory and complementary work and overtime rates and, as mentioned above, they fix hours of work in branches of industry not covered by law.

Japan. — For women and children in factories employing more than ten workers, hours of work are regulated by the Factories Act of 1923 and by Imperial and Ministerial Orders issuing regulations under the Act ¹. In small undertakings employing less than ten persons, the hours of women and young persons and sometimes of men as well are regulated by agreements between employers. The hours of shop assistants are unregulated except in so far as they are affected by the shop-closing legislation applicable to department stores ².

Latvia. — The General Hours of Work Act of 24 March 1922, as subsequently amended ³, covers all industrial undertakings, whether private, public, municipal or State, and also commerce and offices. It is provided that the hours of certain classes of workers, including domestic servants, subordinate staff of hospitals and homes, teachers, etc., shall be fixed by a special Act, but no action appears to have been taken in this direction. An Order of 4 October 1923, amended on 23 April 1937 ⁴, regulates the hours of postal, telegraph and telephone employees.

Lithuania. — An Act of 30 November 1919, as amended in 1925 and 1931 ⁵, regulates the hours of work of wage earners in factories and workplaces. Commercial workers were brought under the Act by the 1925 amendment; they are not explicitly mentioned in defining the scope of the subsequent amendment of 1931, but as the special provisions relating to them have not been repealed, it may be assumed that they are still covered.

Luxemburg. — Hours of work in industry, including mines and building, are regulated by an Order of 30 March 1932 concerning the application of various International Labour Conventions adopted by the International Labour Conference at its first ten sessions ⁶. A special Order of 6 October 1937 fixes limits to daily hours of work in the building industry according to the season. Private salaried employees are not covered by the hours provisions of the Order of 1932, but general provisions concerning their hours of employment are laid down in an Act of 7 June 1937 ⁷.

Mexico. — Certain principles concerning hours of work are contained in the Constitution, and the Federal Labour Act of 18 August 1931 ⁸

¹ *L.S.*, 1923, Jap. 1; 1926, Jap. 1; 1929, Jap. 1; and 1930, Jap. 2.

² A Bill now in preparation aims at directly restricting the hours of women and young persons in shops employing more than fifty persons.

³ *L.S.*, 1922, Lat. 1; amended in particular on 23 April 1937 (*Valdibas Vestnesis*, 1937, g., 24 April, No. 91.)

⁴ *L.S.*, 1930, Lat. 2; *Valdibas Vestnesis*, 1937 g., 24 April, No. 91.

⁵ *L.S.*, 1920, Lith. 2; 1925, Lith. 1; and 1931, Lith. 2.

⁶ *L.S.*, 1932, Lux. 1; amendment, 1933, Lux. 1.

⁷ *Mémorial du Grand-Duché de Luxembourg*, No. 44, 16 June 1937.

⁸ *L.S.*, 1931, Mex. 1.

lays down general rules to govern the hours of work of workers of all kinds, whether engaged in manual or professional work. Power is given to the Federal and local executive authorities to issue regulations to apply these rules to the requirements of special industries, after consulting the employers' and workers' organisations concerned.

Netherlands. — The basic enactment regulating hours of work is the Act of 1 November 1919, as subsequently amended ¹ and supplemented by Regulations revised and consolidated in 1936. This Act contains separate divisions dealing with shops, offices, pharmacies, cafés and hotels, and bakeries, and specifies that the various divisions shall come into force at dates to be fixed by Order, and that such dates may be fixed at different times for different kinds of work. Exceptions may be allowed by Administrative Regulations, and detailed Regulations ² have accordingly been published for all the classes covered except café and restaurant employees, for whom the Act is not yet in force. A separate Act of 20 December 1921 ³ regulates the hours of work of stonecutters.

Collective agreements play some part in the fixing of hours of work. Under a recent Act of 25 May 1937, the provisions of national or regional collective agreements may be made binding by the Minister of Social Affairs for the whole country or for a specified district, if he considers that the agreement in question covers an important majority of the workers in the industry.

New Zealand. — Hours of work are regulated by a combination of legislation, arbitration awards and collective agreements. The hours of work of all workers in factories are limited by the Factories Act and of employees in shops (including hotels and restaurants) by the Shops and Offices Act. Both these Acts were amended on 8 June 1936 to provide for a shorter working week. The Factories Act as amended ⁴ prescribes that 40 hours shall constitute a normal working week, exclusive of overtime, except in certain specified undertakings, and provides that where it would be impracticable to carry on efficiently the work of the factory under these conditions, the Court of Arbitration may order a week not exceeding 44 hours. The Shops and Offices Amendment Act ⁵ provides for a 44-hour week for shop assistants and persons employed in hotels and restaurants.

Apart from these direct statutory limitations, provision is made by the Industrial Conciliation Act ⁶, as amended at the same date, for the regulation of conditions of employment by collective agreements and arbitration awards. This Act also lays down that every award or agreement shall fix weekly hours at 40 or less, unless it would be im-

¹ For consolidated text, see *L.S.*, 1930, *Neth.* 2. No important relevant amendments have been made since that date.

² The Orders laying down these Regulations are as follows: Factories and Workplaces: Order of 8 September 1936 (*L.S.*, 1936, *Neth.* 2); Shops: Order of 11 March 1932 (*L.S.*, 1932, *Neth.* 1); Offices: Order of 8 May 1937 (*L.S.*, 1937, *Neth.* 2); Hospitals: Orders of 3 September 1928, 25 November 1931 and 19 November 1932 (*L.S.*, 1928, *Neth.* 4; 1931, *Neth.* 4; and 1932, *Neth.* 5); Pharmacies: Order of 17 November 1932 (*L.S.*, 1932, *Neth.* 4). Hours of work in bakeries are not governed by Regulations but by an Act of 1 December 1933 (*L.S.*, 1933, *Neth.* 7).

³ *L.S.*, 1921, *Neth.* 3.

⁴ *L.S.*, 1936, *N.Z.* 2.

⁵ *L.S.*, 1936, *N.Z.* 8.

⁶ *L.S.*, 1925, *N.Z.* 1; 1932, *N.Z.* 1; 1936, *N.Z.* 1.

practicable to carry on the industry efficiently under this restriction. Agreements made pursuant to the Act are binding upon the parties and upon every member of the industrial union concerned. The awards of the Arbitration Court may also be extended to bind every union, association and employer engaged in the industry and district to which the award applies, and under the 1936 amendment the Court is also required to make provision to the effect that no employer may employ a worker who is not a member of the industrial union bound by the award.

Nicaragua. — The Hours of Work (Industry) Convention 1919 was ratified by the Government of Nicaragua in 1934.

Norway. — Hours of work are regulated by the Workers' Protection Act of 19 June 1936¹, which is a general enactment covering every establishment in which employees perform work or mechanical power exceeding 1 h.p. is used. Hotels and restaurants, theatres and entertainments are specifically excluded from the hours provisions, however. Separate Acts of 24 April 1906² and 29 May 1925³ regulate hours of work in bakeries and barbers' and hairdressers' establishments respectively.

Collective agreements exist in a number of branches and regulate various points within the provisions of the Act or where the Act does not apply.

Panama. — An Act of 29 October 1914⁴ prescribes an eight-hour working day for all manual workers and salaried employees. An Act of 28 December 1932⁵ also contains some provisions concerning the hours of work of commercial employees.

Peru. — A Decree of 15 January 1919⁶ prescribed an 8-hour day in industry. An Order of 6 March 1936 approved a number of International Labour Conventions, including those concerning hours of work in industry and in commerce and offices. No detailed particulars are available, however, as to the action taken to apply the provisions of the Conventions.

Poland. — The Hours of Work Act of 18 December 1919, as subsequently amended⁷, is a general measure covering industry, commerce, mines, transport and communications. Power is given to the competent Minister to regulate by Order the hours of work of various classes of employees and also to provide for exceptions in respect of preparatory and complementary work, seasonal work, unhealthy work, etc. The Orders made under these powers apply, *inter alia*, to the staffs of curative institutions, watchmen, and preparatory and complementary work. The Act does not apply in Upper Silesia, where hours of work provisions published in 1918 by the German Industrial Demobilisation Office are still in force.

¹ *L.S.*, 1936, Nor. 1.

² *B.B.*, 1907, p. 100.

³ *L.S.*, 1925, Nor. 1.

⁴ *B.B.*, 1916, p. 24.

⁵ *L.S.*, 1932, Pan. 2.

⁶ *Legislación Social de América Latina*, Vol. II, p. 375.

⁷ For codified text, cf. *L.S.*, 1933, Pol. 1.

Collective agreements, local in scope, exist in a number of branches. They may not fix conditions less favourable than those laid down by law, but have some influence on the regulation of breaks and overtime. Under certain conditions, agreements may be declared binding within a specified area by the Minister of Social Welfare.

Portugal. — Hours of work in industrial and commercial undertakings are governed by a Legislative Decree of 24 August 1934¹. Certain undertakings and establishments may be exempted from the statutory provisions by the competent authorities and provision is made for the issue of special regulations for hotels and similar establishments, and for industrial and commercial services of public interest. A separate Legislative Decree of 12 August 1935² regulates hours of work in bakeries.

Collective agreements or decisions of the corporative authorities, binding on all members of the trade or industry concerned, play an important part in the detailed regulation of hours of work in the separate branches, the Legislative Decree mentioned above merely laying down the general principles to be observed.

Rumania. — Hours of work in industry, as defined in the Hours of Work (Industry) Convention, 1919, are regulated by the Act of 9 April 1928 as amended on 10 October 1932, completed by general Regulations of 30 January 1929, amended on 19 December 1932³. The Act provides that the hours of work provisions may be extended by the Minister of Labour to commercial establishments, but no action in this direction has yet been taken, and hours of work in shops, banks and offices are governed only by Ministerial Orders fixing closing times and breaks issued under the Sunday Rest Act of 17 June 1925⁴.

Salvador. — The hours of work of wage-earning and salaried employees in industrial and commercial undertakings are regulated by an Act of 13 June, 1928⁵.

Spain. — The Eight-Hour Day Act of 1 July 1931⁶ regulates the hours of work of all wage-earning and salaried employees, whether in public or private undertakings. Special chapters of the Act contain provisions relating to mines and quarries, metallurgical industries and commercial employees. The hours of work of the latter category are also indirectly limited by the Act of 4 July 1918⁷ concerning daily hours of work in commercial undertakings. In the iron and steel and metallurgical industries, hours of work are fixed at 44 in the week by a special Order of 5 March 1936⁸, and in metal mines at 8 in the day by a temporary Order of 28 August 1931⁹, which has since been renewed every six months. In the postal services an Act of 1 July 1932 authorised the Government to introduce a 40-hour week. Lastly, in Catalonia, a

¹ L.S., 1934, Por. 5.

² L.S., 1935, Por. 6.

³ L.S., 1928, Rum. 1; 1932, Rum. 6.

⁴ L.S., 1925, Rum. 2.

⁵ L.S., 1928, Sal. 1.

⁶ L.S., 1931, Sp. 9.

⁷ B.B., 1918, p. 30.

⁸ L.S., 1936, Sp. 1.

⁹ L.S., 1931, Sp. 9, B.

Decree of 25 July 1936 ¹ lays down the principle of the 40-hour week, requiring the Councillor of Labour to fix rules for the separate branches of industrial and commercial activity after consulting representatives of the workers' organisations concerned.

Within the framework of these statutory provisions, the detailed regulation of conditions of employment is effected by means of standards of employment drawn up by joint industrial boards established for different trades and areas. The conditions so fixed may not be less favourable than those laid down by law, and serve in turn as compulsory minimum standards for all employment relations in the trade and within the area concerned. Where no joint boards exist, hours are sometimes regulated by collective agreements.

Sweden. — In all undertakings employing more than four workers, whether of an industrial or non-industrial character, the hours of work of wage-earning employees are regulated by the Hours of Work Act of 16 May 1930 ², but the Act excludes from its scope a number of classes of employment, including the work of persons engaged in caring for the sick or in teaching, persons employed in shops, hotels and similar establishments in direct contact with the public. The Act lays down general provisions and gives power to a Labour Board to allow exceptions, determine disputes as to the scope of the Act, authorise overtime and the like. A separate Act of 16 May 1930 ³ regulates hours of work in bakeries. Various Government notifications contain hours of work provisions relating to different classes of Government employees, such as the staff of Government hydraulic works and local customs officials.

Collective agreements, both national and local in scope, are widespread, and regulate conditions in some of the branches not covered by law.

Switzerland. — Hours of work in factories are regulated by Federal legislation in the form of a Factory Act of 18 June 1914, as amended on 27 June 1919, and regulations contained in an Order of 3 October 1919 as amended on 7 September 1923 ⁴. The Federal Council is empowered to authorise longer hours than the 48-hour week fixed by the law in particular industries. A Federal Act concerning the status of civil servants empowers the Federal Council to fix the hours of work of public servants not covered by other legislation, and an Order of 24 October 1930 ⁵ accordingly fixed hours for a number of categories, others being covered by provisions issued by the Federal Postal, Telephone and Telegraph Departments for their staff.

There is no Federal hours legislation applying to other classes of salaried and wage-earning employees covered by the present report, but a number of the cantons have their own laws applicable to undertakings or employments not covered by Federal provisions. Of these, the Hours of Work Act of 8 April 1920 of Basle Town ⁶, the Workers' Protection Act of 18 January 1933 of the Canton of Valais ⁷, and the Act of 15 September 1936 of the Canton of Ticino ⁸ concerning employment in under-

¹ L.S. 1936, Sp. 4.

² L.S., 1930, Swe. 1.

³ L.S., 1930, Swe. 2.

⁴ B.B., 1914, p. 269; L.S., 1919, Switz. 3 and 4; 1923, Switz. 3.

⁵ Recueil des Lois Suisses 1930, No. 34, p. 611.

⁶ L.S., 1920, Switz. 2 and 3.

⁷ L.S., 1933, Switz. 6.

⁸ L.S., 1936, Switz. 3.

takings not covered by Federal legislation, all of which apply to most classes of salaried employees as well as to industrial workers, have been used in the preparation of this Report.

Collective agreements exist in various branches and regulate hours of work in some of the cases in which no legislation is applicable.

Union of South Africa. — Hours of work for all workers in factories are restricted by the Factories Act, 1918, as amended on 5 June 1931 ¹, and in underground work in mines (other than coal or base metal mines) by the Mines and Works Act of 1911 as amended on 29 May 1931 ². Shop hours are governed by provincial legislation. Some of these measures merely regulate opening and closing times, but the Cape of Good Hope Shop Hours Ordinance of 26 September 1930 ³, the Transvaal Shop Hours Ordinance of 4 May 1923 ⁴, both of which also cover cafés and refreshment rooms, and the Natal Shop Hours Ordinance 1919, as amended on 4 July 1931 ⁵, also contain provisions directly limiting the hours of shop employees.

Within the statutory limits, and for trades and employments not covered by the law, hours and wages are fixed industry by industry by agreements made by national or local joint industrial councils set up under the Industrial Conciliation Act. These agreements may be declared binding by the Minister of Labour and Social Welfare on the whole of the industry or trade concerned within the specified area. In some cases they fix hours below the statutory limits; the hours fixed, however, are merely the daily or weekly limits beyond which overtime must be paid.

Turkey. — The legislation regarding hours of work is embodied in a new Labour Code of 8 June 1936 ⁶, which came into force on 8 June 1937. The Labour Code lays down the principle of a 48-hour week and 8-hour day both in industrial and in non-industrial occupations, subject to exceptions to be specified in regulations, and provides for its gradual application to different branches of industry and other occupations within the three years following the coming into force of the Act. A general Order to apply the hours of work provisions to specified occupations was issued on 22 September 1937, and provision is made for the settlement of a number of points by further regulations.

U.S.S.R. — General principles governing hours of work are incorporated in the Constitution of the U.S.S.R., and the main lines of hours of work policy are laid down by Orders of the Central Executive Committee and the Council of People's Commissaries, one of the most important of these being the Order of 2 January 1929 ⁷ providing for the gradual introduction of a 7-hour day. Regulations to apply these general rules are issued by Orders of the Labour Commissariat and, since the abolition of that body in 1933, of the General Council of Trade Unions, to which its functions have been transferred. Apart from the general

¹ L.S., 1931, S.A. 2.

² L.S., 1931, S.A. 1.

³ L.S., 1930, S.A. 7.

⁴ Ordinances of the Province of Transvaal, 1923, p. 6.

⁵ Ordinances of the Province of Natal, 1919, p. 58; and 1931, p. 1914.

⁶ L.S., 1936, Tur. 2.

⁷ L.S., 1919, Russ. 3.

measures, which are embodied in the Labour Code of the R.S.F.S.R.¹, special orders have been issued by the various competent bodies for salaried employees, retail trade, domestic employees, employees in hospitals, sanatoria and veterinary institutions, pharmacies, places of entertainment and cinemas, building, seasonal work and postal, telegraph and telephone services.

Collective agreements play no part in the regulation of hours of work, but works rules regulate such matters as breaks in working hours, the rotation of shifts and overtime within the legal limits.

United States. — Hours of work may be regulated by Federal legislation, State legislation or collective agreement. At present Federal legislation exists only for Government employees and territories directly under Federal control, (e.g. the District of Columbia), certain classes of employees in inter-State commerce (mainly transport employees), employees on public works carried out by the Government or with Government aid, and employees working on Government contracts for materials or supplies². Federal measures directly limiting the hours of work of these categories include an Act of 1935 to fix the hours of duty of postal employees³, and an Act of 1920⁴ relating to leased Government mining lands, restricting the hours of underground miners on such lands. The Government Contracts Act of 1936⁵ requires contracts of a value of more than \$10,000 made by the Federal Government to contain provisions that no employee of the contractor engaged in the manufacture or supply of materials, articles and equipment shall work more than an 8-hour day or a 40-hour week, and the U.S. Housing Act of 1937⁶ lays down that an 8-hour day provision for mechanics and labourers shall be included in all contracts of the housing authority. As regards public works, as early as 1892 an Act, subsequently amended in 1912 and 1913, provided an 8-hour day for certain employees engaged on public works schemes, while the President has availed himself of powers granted by the Emergency Relief Appropriation Act of 1935 to make regulations limiting hours of work on Works Progress Administration projects, emergency conservation work, etc. Hours of work on the Tennessee Valley Authority schemes are fixed by an Employee Relationship Policy arrived at after discussion between the employees and the management. It should be noted that the standards set by the public authorities not only affect the workers to whom they directly apply, but also influence conditions in similar occupations in private employment in the neighbourhood. A similar observation applies to the Federal Codes of Fair Competition, drawn up for all industries under the National Industrial Recovery Act. Although this Act was declared

¹ For this Code, issued in 1922 and subsequently amended in accordance with decisions of the Central Executive Committee and Council of People's Commissaries, see *L.S.*, 1922, Russ. 1; 1924, Russ. 5; 1925, Russ. 8; 1926, Russ. 6 and 7; 1927, Russ. 6; 1928, Russ. 6; 1929, Russ. 5; 1930, Russ. 2; 1931, Russ. 3; 1932, Russ. 1; and 1933, Russ. 1. The Labour Codes of the other Soviet Republics are practically identical with that of the R.S.F.S.R.

² A Federal Bill to provide for the establishment of fair labour standards in employments in and affecting inter-State commerce was introduced in the House of Representatives in May 1937, but has not yet been adopted.

³ Public Acts, No. 275, 74th Congress.

⁴ U.S. Code, Title 30, Chapter III, section 187.

⁵ Public Acts, No. 846, 74th Congress.

⁶ Public Acts, No. 412, 75th Congress, First Session.

unconstitutional in 1935 and the Codes accordingly ceased to be enforceable, their provisions have affected conditions in the industries concerned and in some cases have been voluntarily maintained in force.

State hours of work legislation varies from State to State. General laws limiting hours of work for men as well as for women are somewhat infrequent. Laws declaring a standard working day for all workers over a fairly wide field exist in 14 States, (Florida, Illinois, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New York, Ohio, Oregon, Rhode Island, Wisconsin), but in the majority of cases they contain no provision for enforcement. Two other States, North Carolina¹ and Pennsylvania², have recent enactments which also set a weekly limit and contain additional provisions. In 12 States there are laws limiting daily hours in mines (other than coal mines), usually covering smelting works and other plant for the reduction and refining of ores as well. Twenty-four States have laws concerning hours on public works, and sometimes public contracts; a number have laws applying to miscellaneous occupations or undertakings, (e.g. cotton and woollen factories, cement works, compressed air work) and the large majority (44 out of 48) have regulations affecting the hours of women in various employments. In Wisconsin, legislation modelled on the National Industrial Recovery Act is still in force, providing for the drawing up of codes in industries in which competition is mainly intra-State, which may be declared compulsory by the Government throughout the State or in any specified areas.

Collective bargaining is the most important method of hours regulation in the United States, although in spite of the recent marked extension of the system considerably less than one-third of the workers are covered by union agreements at present. The prevalence of collective bargaining varies both from industry to industry and within many industries from one geographical area to another. Union agreements are more frequent in urban areas, for instance, and in the more highly industrialised parts of the country. The more strongly organised groups, in which collective agreements may be regarded as representative, include the following: basic materials (especially glass workers, but also aluminium, cement, iron and steel, petroleum refining and rubber); fabrication (especially pottery and glass-ware; automobiles, except for one large company; pulp and paper products; machinery and electrical equipment); apparel industries (especially men's and women's clothing); building; and printing and publishing. In food and agricultural processing, collective agreements are less common. Apart from the brewery industry, in which unionisation is general, only in baking and confectionery and flour and cereal products can the conditions established by collective agreement be regarded as representative. Union organisation is also backward among "white collar workers", cannery workers, and workers in the distributive trades and personal services. In the latter two groups collective bargaining is fairly general in large cities but there may be wide discrepancies between the conditions prevailing in organised and unorganised sectors. Collective agreements are more representative for merchant tailors, butchers and barbers than in cleaning and dyeing, laundries, hotels and restaurants and the retail trades.

There is no machinery for making collective agreements binding on third parties or for giving them the force of regulations. National agreements are the exception, existing only in the pottery, glass-ware

¹ North Carolina, H. 280, Laws of 1937.

² Pennsylvania, Act 42, Laws of 1937.

and anthracite-mining industries, but uniformity is secured in some branches by modelling minor or local agreements on those made with the dominant company or companies (e.g. in the iron and steel, aluminium and glass industries), and in others by the use of a standard form agreement (e.g. asbestos and sheet metal workers, actors, motion picture operators, compositors and shoe and leather workers), or the inclusion of standard provisions in all agreements, as in the case of the printers' and building trade unions.

Uruguay. — The hours of work of wage-earning and salaried employees in all kinds of undertakings throughout the country are regulated by the Eight-Hour Day Act of 17 November 1915¹, supplemented by more recent detailed regulations of 15 May 1935². The hours of workers in commercial establishments are also affected by the Saturday Half Holiday Act of 22 November 1931³, and regulations issued under it by Decrees of 23 August 1933, 10 November 1933 and 11 September 1934⁴, which have the effect of reducing the working week from 48 to 44 hours. A Decree of 15 December 1936⁵ limits hours of work in cabarets and dancing establishments.

Venezuela. — The hours of work of wage-earning and salaried employees in general are governed by principles laid down in the Labour Code of 16 July 1936⁶. The Act provides for the issue by the Federal Executive of detailed regulations in respect of special industries and particular matters such as the conditions for the authorisation of overtime. Such regulations are at present under discussion by Congress, but have not yet been issued.

Yugoslavia. — General principles for the regulation of hours of work are laid down by the Workers' Protection Act of 28 February 1922⁷, which prescribes definite rules for industry and mines and gives power to the competent Minister to fix hours of work by Order in other branches in accordance with the spirit of the Act. A Decree of 16 April 1929⁸ regulates hours of work in commercial and handicraft establishments. Hours of work in postal, telegraph and telephone services are governed by Regulations of 16 March 1928⁹.

¹ *B.B.*, 1916, p. 19.

² *L.S.*, 1935, Ur. 1.

³ *L.S.*, 1931, Ur. 1.

⁴ *Diario Oficial*, 2 September 1933, p. 380, A; 18 November 1933, p. 371, A; and 19 September 1934, p. 509, A.

⁵ *Diario Oficial*, 24 December 1936, p. 1936, p. 505, A.

⁶ *L.S.*, 1936, Ven. 2.

⁷ *L.S.*, 1922, S.C.S. 1.

⁸ *L.S.*, 1929, S.C.S. 1.

⁹ *Slouzhbene Novine*, 1928, No. 71.

CHAPTER II

SCOPE

In order that the provisions contained in hours of work regulations should have meaning, it is necessary to know the scope of the regulations.

The study of the scope of hours regulations to be made in this chapter does not deal with the detailed provisions of the different hours régimes which may be effective in each country for various categories of work or workers. The present purpose is only to analyse the field of the application of hours regulations, whatever their provisions. A full study of the actual hours provisions contained in the national regulations is found in the following chapters of this Report.

Since scope may be defined either in terms of undertakings or of persons, each of these criteria will be discussed separately in this chapter. First, scope as regards undertakings or establishments is to be dealt with; then scope as regards persons will be studied.

A. — SCOPE AS REGARDS UNDERTAKINGS OR ESTABLISHMENTS

The discussion of scope as regards undertakings will be divided into two parts: I. Undertakings or establishments covered by hours regulations, and II. Undertakings or establishments excluded from hours regulations. These two headings will be dealt with in turn.

I. — UNDERTAKINGS OR ESTABLISHMENTS COVERED BY HOURS REGULATIONS

As regards undertakings, there are five main possibilities by which scope may be defined. Regulation may apply: § 1 to all

branches of economic activity; § 2 to all industrial undertakings; § 3 to certain industrial undertakings; § 4 to all commercial undertakings; or § 5 to certain commercial undertakings. These five possibilities will be discussed separately below.

A sixth heading comprising certain special activities will also be treated separately, since the categories of work contained in it are of a nature requiring special attention.

Before beginning the study of national hours regulations as they fall under each of the headings referred to above, it is important to take into account two broad classifications of undertakings which may apply, either with the effect of extending or of limiting them, to all the regulations to be discussed.

Undertakings may be classified as being public or private, and as being profit or non-profit making. In determining the scope of hours regulations the problem arises whether they shall apply alike to private undertakings and to those administered or controlled by the public authorities, to those of a non-profit making or philanthropic character as well as to those carried out for gain.

Frequently specific provisions settling this problem are found in the national regulations. Those countries in which public and philanthropic enterprises are specifically included under the hours laws will be cited below. Later in this chapter, under the heading "Undertakings or establishments excluded from hours regulations", mention will be made of the countries under the regulations of which they are not expressly included.

PUBLIC ENTERPRISES INCLUDED IN NATIONAL REGULATIONS

In the following countries public undertakings in general are covered by the hours regulations.

Argentina, Bulgaria, Colombia, Finland (8 hour law), *France, Germany, Italy, Poland, Spain*, the *Swiss Canton of Basle Town*, the *U.S.S.R., Venezuela*, and *Yugoslavia*.

In *Austria* the Eight-Hour Act covers State enterprises and those carried on by provinces or communes whether or not they are carried on by way of trade. It also includes undertakings of the Monopoly Department.

In *Belgium* the law of 1921 (48-hour régime) applies to undertakings carried on by public bodies, on condition that they are of an industrial character.

The 8-hour law of *Cuba* includes public utility services.

In *Czechoslovakia*, although under the law of 1918 offices of public administration of the State, communes and other public bodies are excluded, other undertakings carried on by the State, such as railways, the post, telephone and telegraph, are included. Also included is the work of public or private associations, foundations, groups and societies.

In *Ireland* persons employed by the State, excepting the defence forces, are covered by the Conditions of Employment Act.

The *Japanese* Factories Act, covering women and children, applies to Government-owned factories and to those owned by other public bodies.

In *Latvia* all State, municipal and public undertakings are covered by the Hours of Work Act, although public works are excluded.

In the *Netherlands* the Labour Act of 1919 includes institutions or branches of service under the control of the State, a province, commune or other public body, or of an incorporated or endowed institution, "in so far as such operations are usually performed in a factory or workplace, shop, pharmacy, café or hotel".

In *Uruguay* the law of 1916 specifically covers public works.

In the *Australian* State of Tasmania the Factories Act covers factories owned by the State although it is provided that in cases of public necessity these may be exempted by the Minister.

Legislation in a number of States in the *United States of America* provides for the inclusion in hours regulations of public works and other public undertakings. Two instances where this occurs are in Oklahoma and Wisconsin.

NON-PROFIT MAKING ENTERPRISES INCLUDED IN THE NATIONAL REGULATIONS

In the following countries non-profit making enterprises are expressly covered by the hours regulations:

In *Argentina* any public or private undertaking, even if it is not carried on for profit, is covered.

In *Belgium* the law of 1921 (48-hour régime) does not require that the enterprises to be covered shall be profit making. The criterion used is that of the civil or commercial object of the work. It also specifically covers public or private establishments of professional instruction or charity, such, for example, as schools of apprenticeship, provided that the manufacturing or other work done in them is likely to enter commercial channels.

The Eight-Hour Law of *Finland* covers both profit and non-profit making enterprises.

In *Germany* both salaried and wage-earning employees in establishments of the Reich, States and communes, whether or not operating for profit, are covered by the legislation.

In the *Swiss* Canton of Basle Town all employment is covered.

Likewise in *Czechoslovakia*, *France*, *Hungary*, *Italy*, and *Poland*, both profit and non-profit making enterprises are covered by hours regulations.

In two countries, *Cuba* and the *Netherlands*, although no specific mention is made of non-profit making enterprises, the broad nature of the law in each case renders it likely that they are covered.

§ 1. — Regulation covering all Branches of Economic Activity

The scope of hours of work regulations which are intended to cover all branches of economic activity may be defined in either of two ways. There is, first, the general formula, so wide as to cover all economic activities. To such a formula may be added a list of exceptions, activities not to be regarded as comprised in it. The second method is that of enumeration, by which a list of the activities to be covered is given. Such a list, defining separately each category of work to be included, may become, in effect, as broad in scope as the general formula.

General regulation of hours of work in the whole ensemble of economic activity exists in a large number of countries. Division of these countries as regards the two methods of defining scope just referred to will be given below.

1. SCOPE DEFINED BY A GENERAL FORMULA

The method of definition by general formula may itself take one of two forms.

The law may be complete, requiring no supplementary orders or regulations in order that it may be effective. In such a case, scope as defined in the general formula contained in the Act coincides with the scope to which its provisions are actually to be applied.

In other cases, however, the legislative enactment may be simply a form or framework, dependent for its application on the issuance of some kind of regulations. Under this system, even though the

law permits the application of hours regulations to all forms of economic activity, it is often the case that the regulations have so far included only certain branches of it.

(a) *Immediately Effective Legislation*

The methods of national hours regulation will now be examined. First to be treated will be those countries in which the law, employing a general formula, is immediately effective without depending upon the issuance of administrative regulations.

Under this heading the countries in which hours regulations have similarity to each other will be grouped together.

In two countries, *Chile* and *Mexico*, the legislation is written in terms of employers. The *Chilean* legislation requires all employers to observe the statutory hours provisions. Employer is defined as "any individual or body corporate . . . engaged in carrying on any undertaking or work (irrespective of its nature or size) in which wage-earning or salaried employees are engaged, irrespective of the number of such employees".

The law in *Mexico* likewise covers all employers, an employer being "any person or body corporate employing another for the performance of services under a contract of employment".

In *Colombia*, *Germany* and *Luxemburg* hours of work regulations apply to salaried employees in all undertakings. However, it should be noted that while the *German* legislation covers salaried employees in all branches of economic activity, wage earners are covered only in industrial undertakings. (See *infra*, § 2.) The legislation in *Colombia* and *Luxemburg* applies only to salaried employees in private enterprises.

In other countries the legislation is written so as to apply to persons engaged in paid work.

Thus in *Argentina* all public and private undertakings in which persons are employed on account of another are covered.

Likewise in *Norway* all establishments in which there are employees come under the hours regulations.

The *Spanish* legislation covers all industrial undertakings, occupations and paid work carried on under the direction of another.

In *Venezuela* the legislation covers undertakings or businesses "of any kind or extent where wage-earning or salaried employees are employed, irrespective of their number".

In the following countries the wording of the legislation is very general.

In *Latvia*, for example, it is provided that hours provisions shall

cover all private, municipal, public and State undertakings and establishments.

In *Poland* the law covers all industrial and commercial establishments, public or private, of whatever nature, if "undertaken industrially". Interpretation of this phrase by various Supreme Court decisions indicates that the law applies to all establishments having for their aim the permanent execution of work for the benefit of third persons.

Two cantons of *Switzerland* employ the general formula. In Basle-Town "all employment, whether public or private, within the cantonal area" including domestic service and home work is covered. - In Valais all undertakings, establishments and workshops not covered by Federal Acts are included under the hours legislation.

In the *United States of America* the laws of certain States employ a general formula in establishing the scope of hours of work laws. This is true in, for example, North Carolina and in Pennsylvania.

The Labour Code in *U.S.S.R.* applies to all enterprises, establishments, and works, public or private, whether or not they provide homework.

Certain countries use a general formula which is followed by an enumerative list.

This is the case in *Cuba*, where the 8-hour law covers "every kind of occupation in which the inhabitants of the Republic engage, whatever the nature of their employment". This general formula is followed by an enumerative list: factories, workshops, quarries, constructional undertakings of every kind; clerks, shopmen and messengers in industrial or commercial establishments etc.

Legislation of this type also exists in *Sweden*, where the law applies to wage-earning employees in every business, whether industrial or not, and to the building of houses, road construction, hydraulic engineering, and drainage.

(b) *Laws of Principle ("lois de cadre")*

The other type of national regulation of hours which comes under the heading of a general formula includes those countries in which the law provides a basis upon which regulations are to be issued. These countries will now be discussed, being grouped as far as possible according to similarities of legislation.

In certain countries the legislation takes the form of general Acts under which awards or codes may be issued or which may give the force of law to collective agreements.

In *Australia*, regulation of hours of work is of two kinds. There are, first, Factories Acts in the various States, but these have to a large extent been superseded as regards their hours provisions by the second type of regulation, namely arbitration awards. These awards may be made by the various State arbitration courts or, in the case of disputes extending beyond State limits, by the Commonwealth Court. The scope of awards is determined by the awards themselves. As a general rule the terms of awards may be extended to third parties.

In *Canada*, in the Provinces of Alberta, Saskatchewan and Ontario there are Industrial Standards Acts under which schedules may be issued covering all economic activities. In British Columbia schedules may be issued under the Hours of Work Act applying to all activities. In part, the schedules under this Act reproduce the definition of industry followed in the Washington Convention, but in addition other activities, including the mercantile industry, have been covered. In Quebec the Workmen's Wages Act provides that under certain conditions collective agreements may be given the force of law. Actually, although each of these Acts may apply through schedules or agreements to all activities, only certain undertakings have thus been covered by hours regulations in each of the provinces mentioned.

A somewhat similar system occurs in the State of Wisconsin (*United States of America*), where the Recovery Act provides that codes regulating hours of work may be issued applying to any trade or industry in which competition is essentially intra-State.

In other countries the law is general but depends for its application upon the issuance of Decrees or Orders.

This is the case in *France*, where the law of 21 June 1936 covers "industrial, commercial, handicraft and co-operative establishments and their dependencies of whatever nature they may be, public or private, secular or religious, even if they have the character of professional instruction or charity, including public hospitals and insane asylums". The law is to be put into effect by decrees which shall determine, "by profession, by industry, or by occupation, whether for the whole country or a region, the terms of the application of the foregoing article". Decrees have been issued for all private undertakings and for some work carried on by the State.

In *Hungary* the law is a general one which may cover all paid work of whatever kind. It is, however, to be put into effect by stages on orders of the Minister.

In Catalonia (*Spain*) a Decree of 1936 establishes the 40-hour week for all industrial and commercial activities. The Decree provides that the Minister shall, in consultation with workers' representatives, issue specific regulations suitable to the different branches of industrial and commercial activity.

2. SCOPE DEFINED BY ENUMERATION

The cases where general hours legislation contains an enumerative list of the activities to which it shall apply will now be discussed. These countries will be grouped as far as possible according to similarities of legislation.

The laws of *Austria*, *Czechoslovakia* and *Belgium* are alike in that the scope as set out in the enumerative list which each contains appears virtually equal in breadth.

In *Austria* the hours of work legislation applies in effect to all branches of economic activity. The law covers all establishments which come under the "Industrial Code" (*gewerblich*), that is, all activities carried out professionally, including commerce. (For the exemptions from the legislation see *infra*, II. "Undertakings or establishments excluded from hours regulation".)

Somewhat similar is the *Czechoslovakian* legislation which has a very wide scope, defined as extending to all industrial and commercial undertakings, including mines, transport, State undertakings, and certain agricultural and forestry enterprises. It covers, in effect, all branches of paid work.

The *Belgium* (48-hour régime) law of 1921 contains an enumerative list of the enterprises covered. This list covers in substance the same activities as those included in the scope of the Hours of Work (Industry) Convention of 1919, although in addition it applies to dairies and cheese-making establishments and to commercial enterprises in general. The law specifies that its application extends to the dependencies of all enumerated undertakings. It should be noted that there also exists in Belgium a 40-hour régime covering, at present, only certain industrial activities. (See *infra*, § 2 and § 3.)

In other countries the enumeration of activities contained in the legislation is based chiefly on work done in factories, workshops, shops and offices.

In *Finland* two laws in combination cover the whole field of economic activity. Under one, factories, workshops and other

industrial undertakings are covered; while the other includes commercial establishments and offices.

In the *Netherlands* the Labour Act of 1919 covers factories and workplaces, shops and offices. The definition of each of these terms is quoted here:

“Factories and workplaces shall mean:

- (a) all open or enclosed places where work is usually performed otherwise than for the exclusive benefit of a household established therein, in or in connection with manufacturing, altering, repairing, ornamenting, finishing or in any other way adapting or further adapting for sale or use, or destroying, any goods or materials, or where goods or materials are usually subjected to operations for these purposes, or where merchandise is usually weighed, measured or packed for the purpose of retail sale, elsewhere than in shops for the sale thereof on the premises and in auction rooms;
- (b) electricity works, sub-stations, pillars and other places where electrical power is generated, transformed, distributed or accumulated;
- (c) buildings, earthworks, hydraulic undertakings, underground conduits and roads in course of construction, laying out, alteration, repair or demolition;
- (d) draining mills;
including in every case dependencies such as passages, stairs, landings, cellars, attics, sheds and storerooms, etc.

“Shops shall mean all open or enclosed places where goods or materials are usually retailed to the public. . . . Shops shall also mean places where work is usually carried on in a barber’s or hairdresser’s undertaking, in so far as the work done therein consists of or is connected with operations in the barbering or hairdressing industry . . . Places in the same building as a shop or on ground appertaining thereto, where goods or materials are stored for sale in the shop, shall be deemed to be part of the shop.

“Offices shall mean all enclosed places where administrative or draughtsmen’s work is usually performed.”

The Decree covering hours of work in *Portugal* covers “all offices, shops, warehouses, workshops, factories, workplaces and other places where activities of a commercial or industrial character are carried on”.

The 8-hour law of *Uruguay* covers wage-earning employees in factories, workshops, maritime construction, quarries, building, and dredging in harbours, on the coasts and rivers. It also covers salaried employees and assistants in all industrial and commercial enterprises.

A certain similarity exists between the definition of scope contained in the legislation of *Bulgaria*, the *Swiss* Canton of *Tessin*, and *Yugoslavia*.

The legislation of *Bulgaria* covers all industry and commerce including shops, construction and building, and mining.

The law of Ticino (*Switzerland*), while it does not apply to factories covered under the Federal Factories Act, covers industry and handicrafts, construction, commerce, offices and liberal professions, the hotel industry, transport, hospitals and clinics.

In *Yugoslavia* the law applies to all undertakings or establishments carrying on "handicrafts, industry, commerce, mining, transport and similar activities".

§ 2. — Regulation covering all Industrial Activity

Where regulation of hours of work is not extended to all economic activity it may apply to all industry.

In countries where this is the case, one of three courses may be followed:

1. The definition of scope used in the Hours of Work (Industry) Convention may be adopted.
2. Scope may be otherwise defined by the Act itself.
3. The legislation may be of a permissive nature applicable to all industry.

1. SCOPE AS DEFINED IN THE HOURS OF WORK (INDUSTRY) CONVENTION

In certain countries the definition of industry used in the Hours of Work (Industry) Convention, 1919, has been followed.

This is the case in *Colombia*, *Egypt* (covering women only), *Estonia*, *Greece*, *Luxemburg*, and *Rumania*.

The definition of "industrial undertaking" contained in the Convention is as follows:

"For the purpose of this Convention, the term "industrial undertaking" includes particularly:

- (a). Mines, quarries, and other works for the extraction of minerals from the earth.
- (b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding and the generation, transformation, and transmission of electricity or motive power of any kind.

- (c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.
- (d) Transport of passengers or goods by road, rail, sea or inland waterway, including the handling of goods at docks, quays, wharves or warehouses, but excluding transport by hand."

2. SCOPE AS OTHERWISE DEFINED

The legislation of other countries sets out its own definition of the term "industry".

In *Ireland* all industrial activities are covered, the definition contained in the Conditions of Employment Act being very similar to that of the Washington Convention. The chief difference is, however, that transport is excluded.

In *Brazil* "industrial undertakings of any kind" are covered.

In *Germany* the legislation covers wage earners in all industrial enterprises, mining, and aspects of agriculture having an industrial character. Salaried employees are, as has already been noted, covered in all economic activities. (See *supra*, § 1).

In *Lithuania* the Hours of Work (Amendment) Act of 1931 provides that it shall apply to "all factories and workplaces in which wage earners are employed".

3. PERMISSIVE LEGISLATION APPLICABLE TO ALL INDUSTRY

In *Belgium* the 40-hour-week law applies only to unhealthy, dangerous or particularly difficult industries, but its application may by order be extended to all industries ("toutes branches de production"). See *infra*, § 3 for definition of such industries.

In the *Canadian* province of Nova Scotia, all industrial activities, including mines, may be covered by orders issued under the Limitation of Hours of Labour Act.

In *Denmark* the law of 1937 is of a permissive nature covering all industry, the definition of industry corresponding very closely with that of the Hours of Work (Industry) Convention. The form of the law is to prohibit overtime beyond the hours set in collective agreements. At present agreements exist only in certain branches of industry and the coverage of hours of work regulation under this Act is, therefore, no more than partial. (For the law covering factories with continuous processes see *infra*, § 3.)

In *Italy* a Decree of 1937 establishes a 40-hour week covering wage-earning employees in industry while a 48-hour week set up by the Decree of 1923 applies to wage earners and salaried employees in industrial and commercial undertakings. However, there are a number of exceptions to these régimes which result from the provision in the law by which it is to apply only to "work requiring assiduous and continuous attention". (For the exceptions, see *infra*, II, § 4 "Other exclusions".)

In *Turkey* the hours provisions of the Labour Code are made applicable to certain industries by Order No. 1 issued in 1937. This order applies to the following industries:

- work of all kinds in mines and other works for the extraction of any kind of mineral, and in quarries;
- industries in which raw materials, semi-manufactured and finished products are manufactured, cleaned, altered, decorated or prepared for sale;
- assembling, repair, cleaning and dismantling work;
- the construction, repair, transformation and demolition of buildings and all connected industrial work;
- generation, transformation and transmission of electricity and all kinds of motive power, and all work on power supply plant and apparatus;
- installation and operation of gas works and water works;
- construction, repair, alteration and demolition of vessels;

§ 3. — Regulation covering Certain Industrial Undertakings

It is often the case that hours of work are regulated only in certain kinds of industrial activity. The two kinds of special regulation occurring most frequently apply:

1. To factories; and
2. To dangerous, difficult or unhealthy industrial occupations.
(Cases in which regulation of certain industrial undertakings not covered by either of these headings occurs will be treated under a separate paragraph.)
3. Other industrial activities.

1. REGULATION APPLYING TO FACTORIES

Regulations applying only to factories will be dealt with first, and will be grouped according to similarities of form or provisions.

(a) *Regulation applying to all Factories*

In certain cases factory legislation applies without restriction as to the nature of the factory.

This is the case in *Australia*, where in Western Australia the hours of work of all workers in factories are limited.

Likewise in *New Zealand* the factory legislation covers:

- any place where one or more persons are employed in any handicraft or in manufacturing goods for trade or sale;
- every power house;
- every place where steam or other mechanical power is used for manufacturing or preparing goods;
- every place where electrical energy is generated or transformed;
- every laundry;
- or any place in which any Asiatic person is employed in laundry work or any other handicraft, or in manufacturing.

In the *Union of South Africa*, the use of mechanical power being taken as a criterion, a factory is defined as:

- any premises where mechanical power is used for the manufacture of goods for sale or of food, drink, and similar products;
- any premises where washing, cleaning and dyeing is done for pecuniary gain;
- any premises where any manufacturing, preparation or packing of goods for transport for pecuniary gain is done.

In certain States of the *United States of America* there is legislation covering factories in general. Examples of this occur in Michigan, Mississippi, Ohio, Oregon and Rhode Island.

(b) *Regulation applying to Special Kinds of Factories*

It is also a common practice for factory regulations to contain qualifications concerning the type of factory to which they shall apply.

In *Denmark* only factories in which there are continuous processes are regulated (see *supra*, § 2, concerning the Hours Law of 1937).

In various States of the *United States of America* textile factories only are regulated as regards hours of work. Examples of this are found in Georgia, Maryland and South Carolina.

(c) *Conditional Regulation of Factories*

In other countries the application of factory legislation is qualified in various ways.

a) *Qualification as regards the Number of Workers employed in the Use of Mechanical Power*

The Tasmanian Act (*Australia*) defines a factory as any place in which four or more persons (including the head of the enterprise) are engaged in any handicraft or in the preparation or manufacture of articles for sale. The term "factory" includes all bakeries; clay pits and quarries used in connection with a pottery or brick works; any place in which motive power produced by water, steam, gas or electricity exceeding one horse power is used; any place where electricity is generated or transformed; and any place in which any Asiatic person is employed in an industry or in the preparation of goods for sale.

In *China* legislation covers all factories using mechanical power and regularly employing thirty or more workers. An interpretation of this Act by the Minister of Industry extends the law to mines when they conform to these provisions.

In *India* the Factories Act covers any premises exclusive of mines where twenty or more workers are working or have worked on any day of the past twelve months and in any part of which a manufacturing process is, or is usually, carried on with the aid of power.

In *Switzerland* the Federal Factories Act covers work in factories. An order issued in 1919 interprets the Act as follows:

"Factory includes:

- industrial undertakings in which six or more workers are employed with the use of mechanical power;
- or industrial undertakings in which mechanical power is not used but in which six or more persons including at least one young person are employed;
- or industrial undertakings in which mechanical power is not used nor young persons are employed, but in which eleven or more workers are employed;
- or industrial undertakings in which fewer workers than those specified above are employed but in which there is special danger to the health and lives of workers, or which are unmistakably of the nature of factories as regards the manner in which their work is carried on."

For the purposes of the clause relating to dangerous or unhealthy occupations quoted above, it was ordered that the following shall be regarded as factories; flour mills, gas works, and electrical produc-

tion and transmission undertakings in which more than three persons are employed; and embroidery workshops employing three or more hand machines.

(ii) *Qualification as regards the Persons employed*

Factory regulation in certain countries applies not to all persons employed in factories, but only to women and young persons.

Three *Australian* States—New South Wales, South Australia, and Victoria—limit the hours of work of women and young persons in factories. The system of arbitration awards which is of such importance in regulation of hours of work in *Australia* should be recalled here. (See *supra*, § 1 (2).) The legislation of Victoria (*Australia*) contains a complicated definition of factory. A factory is considered to be a place:

in which four or more persons are employed in any handicraft or in manufacturing articles for trade or sale;

in which one or more Chinese persons are employed;

in which one or more persons are employed and in which steam, water, gas, oil or electric power is used;

in which one or more persons are employed in manufacturing furniture, bamboo and wicker goods, electric accumulators, bread, pastry or confectionery;

in which electricity exceeding one-half horse power is generated or transformed or in which coal gas is made;

also any clay pit or quarry worked in connection with any pottery or brick yard.

Factory legislation in *Great Britain* covers the working hours of women and young persons only. Here a factory means any premises in which any article is made, altered, repaired, finished, demolished or adapted for sale. It should be noted however that hours of employment in *Great Britain* are not in general regulated by law but by collective agreements and Trade Board Orders. Hours set by collective agreements do not normally exceed 48 per week and agreements cover a very high percentage of the employed population, including practically all persons employed in industrial undertakings such as engineering, shipbuilding, mines, docks, and the textile and building industries. Trade Boards may be set up for trades in which in the opinion of the Minister of Labour no

adequate machinery exists for the effective regulation of conditions of work. The hours set by Trade Board Orders are weekly hours beyond which overtime rates must be paid.

The *Japanese Factories Act* applies only to women and workers under sixteen years of age. It covers factories employing more than ten workers, in which the work is unhealthy or dangerous, or in which mechanical power is used for spinning or weaving.

2. REGULATION OF DANGEROUS, DIFFICULT OR UNHEALTHY INDUSTRIAL OCCUPATIONS

In a number of countries there is hours regulation for certain occupations which are considered to be particularly dangerous, difficult or unhealthy. In a number of cases such regulation applies to mines only, and these countries will be grouped together. The other legislation coming under this heading will also be grouped as far as possible according to homogeneous characteristics.

(a) *Regulations applying to Mines.*

The mining legislation which will be dealt with here refers to all mines with the exception of coal mines, which are covered in a separate section of this Report.

In the *Australian State of Victoria* the hours of work of underground miners are covered by a special Act.

In *Austria* mines, although excluded from the general legislation of 1918, are covered by a special enactment of 1919. This however covers only wage-earning and not salaried employees working in mines.

In *Canada* a special Ordinance in the Yukon Territory applies to work in mines. In *Manitoba* there is an Act covering mines worked for the finding, extraction and proving of minerals, petroleum and similar products. This Act includes in its scope roasteries and furnaces.

In the *Union of South Africa* special legislation applies to work in mines, a mine being any excavation made with the object of finding or obtaining minerals.

In *Spain* special provisions for mines are contained in the general legislation.

In the *United States of America* a Federal Act limits the hours of underground work in mines on leased Government mineral lands.

(b) *Regulations applying to other Dangerous, Difficult or Unhealthy Industries*

Hours legislation in other countries applies to certain industries which, by enumeration contained in the legislation, are considered to be unhealthy, dangerous or particularly difficult.

For instance the Hours of Work Decree in the *Argentine Republic* contains special provisions for work in "unhealthy places". Examples of such work as given in the decree of 1930 are:

- the manufacture of white lead, red lead, or other poisonous pigments;
- glass cutting and polishing;
- operations in workshops in which linotype composing machines are used;
- the manufacture of mercury and its compounds;
- gilding and silver plating;
- work done in workplaces in the textile industry where there is a very high temperature, and also in certain other textile processes;
- work under water, repairing of vessels, and diving;
- work in special sanatoria and hospitals intended for patients suffering from tuberculosis.

The law of 1936 in *Belgium* (40-hour régime) applies "to industries or sections of industry in which the work is performed under unhealthy, dangerous or difficult conditions". The law itself does not contain a definition of these conditions, but Belgian jurisprudence provides the following definitions. Dangerous establishments are those which endanger the safety of persons on the premises or in the neighbourhood or which could endanger the security of nearby property. Particularly belonging in this category are works in which there is danger of explosion or fire. Unhealthy establishments are those which permit the escape of noxious fumes dangerous to the health of persons, animals, or growing things¹. There is no legal definition of the concept of difficult work. However in a debate in the Chamber, work at, for instance, a moving belt was considered as one type of difficult work.

In *Egypt*, although legislation covers women in all industrial

¹ Cf. P. HOMON: *La durée du travail industriel et commercial et les congés annuels payés*, p. 36, Bruxelles, 1937.

and commercial undertakings, male wage earners are covered only in certain unhealthy or dangerous undertakings. The list of such undertakings contained in the Decree of 1935 is as follows:

- (1) Underground work in mines and quarries and all work for the extraction of stone.
- (2) Work in foundries for the fusion, refining and baking of mineral products.
- (3) Silvering of mirrors with mercury.
- (4) Manufacture and handling of explosives.
- (5) Glass making.
- (6) Handling, treatment and reduction of ashes containing lead, and the desilverisation of lead.
- (7) Manufacture of solder or alloys containing more than 10 per cent. of lead.
- (8) Manufacture of litharge, yellow lead, red lead, white lead, sulphate, chromate or silicate of lead.
- (9) Manufacture of electric accumulators.
- (10) Asphalt making.
- (11) Skin tanning.
- (12) Manufacture of manure from fecal matter, manure, bone and blood.
- (13) Slaughter of animals.

The *Japanese Factories Act* already referred to (see *supra*, 1) applies to factories in which the work is unhealthy or dangerous.

In *Switzerland* special provisions in the Federal Factories Act, referred to above, apply to work of an unhealthy or dangerous nature.

In some countries there is legislation applying to separate industries which are considered to be dangerous, difficult or unhealthy.

In *Brazil* special regulations cover work in the cold-storage industry. A Decree issued in 1934 provides: "For the purposes of this Decree, artificial cold shall be deemed to exist in the first and second climatic zones of the official map of the Ministry of Labour, Industry and Commerce if the temperature is less than five degrees and in the third zone if the temperature is below freezing point". The establishments to be covered are defined as "*inter alia* those engaged in:

- (a) the manufacture and storage of ice;
- (b) the storage of perishable merchandise in refrigerating chambers;
- (c) the storage of meat and the by-products thereof in slaughter-houses;
- (d) the storage of beer and manufactured beverages of a similar nature;
- (e) the large-scale manufacture of ices;
- (f) the storage of fish, poultry and dairy produce in general."

In the *United States of America* there is legislation in the States of Maine and New Jersey covering workers employed with compressed air. In Missouri special limitations for hours of work are provided for in mining and also in chemical manufacture, the smelting business, silica mining and plate glass manufacturing.

3. REGULATION OF OTHER INDUSTRIAL ACTIVITIES

In the countries to be mentioned here there is regulation of hours of work in certain industrial activities not classifiable, however, under the two preceding headings.

In *Denmark* the law of 1937 prohibiting overtime beyond hours fixed by collective agreements may apply to factories and manufacturing undertakings and other industrial and handicraft enterprises, including gas and electric works, quarries, construction and building. At present agreements exist and the law, therefore, applies in the following industries: footwear, cigar making, printing, iron and metal working, joinery and cabinet making, the textile industry and the brewing industry.

In *Great Britain* an Act was passed in 1936 to give effect to the Sheet Glass Works Convention of 1934 (Convention No. 43). The scope of this Act coincides with that of the Convention.

The hours of work order of *Hungary* provides that, "pending the regulation by an Act of hours of work of persons in industrial and commercial undertakings the Minister of Commerce may issue orders ... to regulate the hours in various branches of industry. ... To date these orders have covered wood working, the upholstering industry, multigraphing, the footwear industry and the textile industry. These orders remain in effect, although in 1937 a general hours law was passed. So far this law has been made applicable only to the milling industry.

In *Canada* a Dominion Act regulates hours of work in all

undertakings filling Government contracts for construction, repair, demolition, and similar work as well as for all such work undertaken with the aid of Government funds. This Act does not apply to the purchase of materials or equipment for use in the work.

Similarly in the *United States of America*, under the Government Contracts Act, it is provided that hours provisions must be contained in all Federal Government contracts of more than \$10,000 value for the manufacture or supply of materials, articles and equipment. Such contracts may only be made with a regular dealer or manufacturer. A regular dealer is defined as a person who owns or operates a place where goods of the kind called for by the contract are bought, stocked and sold in the ordinary course of business. A manufacturer is one who owns, operates or maintains a factory or establishment which produces on the premises materials, supplies, articles and equipment required under the contract and of the general character described by the specifications. The Act does not apply to purchases usually made in the open market, the purchases of perishables, agricultural commodities and certain transportation services. Sub-contractors are not covered.

Although it is difficult to treat collective agreements adequately with regard to their scope, in addition to the Federal and State laws of the *United States of America* which are dealt with in this chapter, it is necessary here and below (see *infra*, § 5) to take some consideration of the extent and importance of collective bargaining in that country. Collective dealing between unions and employers on an industry-wide or national basis is exceptional in the United States. Occasional instances of this type of agreement do, however, occur. Uniformity of provisions contained in agreements over the nation or smaller areas is also sometimes achieved by the use of standard form agreements adopted locally, agreements signed by employers' associations in a given area, or similar means.

The industries in which collective bargaining is extensive enough to warrant consideration of union conditions as indicative of general conditions are as follows:

Basic Materials

Aluminium
Cement
Glass
Iron and Steel
Lumber
Petroleum Refining
Rubber
Stone

Food and Agricultural Processing

Baking and Confectionery
Brewing
Flour and Cereal Products

Construction

Building
Ships

Fabrication

Automobiles and Parts
Coopers
Electrical Equipment
Furniture
Glassware
Jewellery
Machinery and Parts
Pulp and Paper Products
Pottery
Stoves
Upholstering

Apparel

Furs
Hats
Hosiery
Leather and Leather Products
Men's Clothing
Shoes
Textiles
Women's Clothing

Transport

City Passenger Lines
Longshore
Taxi
Trucking

Miscellaneous

Building Service
Gas and Coke
Light and Power
Printing and Publishing

Hours provisions contained in agreements covering these industries will be discussed in later chapters of this Report.

§ 4.— Regulation of all Commercial Activities

Just as hours of work regulations not applying to all economic activities may cover all industry (see *supra*, § 2), likewise, it is possible for them to cover commercial undertakings in their entirety. Discussion of those cases in which only certain forms of commercial activity are covered will be found below (see *infra*, § 5).

In relatively few countries have provisions been made applying only to the whole group of commercial undertakings.

In *Egypt* the hours of work of women in all commercial activities are regulated. Under the law a commercial establishment is defined as:

- (a) any place in which goods are sold or any other commercial operation is carried on;
- (b) services in which the persons employed are mainly engaged in office work in any establishment, industry, or service of public utility;
- (c) hotels, restaurants, boarding houses, cafés, refreshment rooms, theatres, cinemas, music halls, and all other establishments of the same kind.

In *Denmark* the law of 1937 prohibiting overtime beyond hours set in collective agreements, which has already been mentioned

(see *supra*, § 3), may apply to all commercial establishments, offices and banks. At present, agreements in commercial activities apply, and the effective scope of the law is therefore limited, to offices only.

In *Italy* the 48-hour week was established by decree in 1923 for employees in commercial activities of all kinds, in offices of public works, and all places where work is performed for a salary or wages on account of another. The Act does not apply to domestic work, that is "all work connected with the normal conduct of the household arrangements of a family or community, e.g. a boarding school, college, convent, monastery, barracks or penitentiary". The Act does not apply to work not "requiring assiduous and continuous attention". (For the exceptions which have been made to the decree, see *infra*, II. "Undertakings or establishments excluded from the regulations".) Note should be taken here of the agreements reached in 1934, and renewed in 1935, between the Fascist federations of commercial employers and of employees. These agreements, the chief purpose of which was to reduce unemployment in commerce, favoured the adoption of a 40-hour week in the branches of commerce in which technical and economic conditions would permit.

§ 5. — Regulation of Certain Commercial Activities

Where all commercial activities are not regulated as regards the working hours of persons engaged in them, regulations may apply to certain kinds of commercial undertakings. Regulations entering in this category may be classified (1) as applying to certain enumerated commercial activities, or (2) as applying to shops only. These two groups of regulations will be discussed separately below.

1. REGULATION OF CERTAIN ENUMERATED COMMERCIAL ACTIVITIES

In *Turkey* an order issued in 1937 giving effect to certain provisions of the Labour Code limits hours of work in some of the industries listed in the code and also in the following commercial activities: "banks, insurance companies, all wholesale commerce, inclusive of auxiliary commercial services such as agencies, representation, brokerage and other similar services".

In *Rumania* all industrial activities (following the definition contained in the Hours of Work (Industry) Convention) were

covered by a Decree issued in 1929. It was provided in the decree that its provisions might be extended also to commercial undertakings, but this has apparently not yet been done.

In *Greece* an hours Decree issued in 1932 defines a commercial establishment as "any open or enclosed place in which goods (raw materials, natural produce or products of handicrafts or industry) are habitually bought and sold. This expression shall include places where barbers' or hairdressers' work is done." However, a long list of exceptions and the restricted list of the enterprises to which the hours provisions apply make it evident that in fact the Act covers only some commercial activities. Examples of those covered are: barbers, grocers, provision and tobacco shops in towns of more than 10,000 population; certain wholesale establishments in towns on the coast; joint stock companies; and banks and offices in general.

Legislation in *Brazil* applies to "commercial establishments, departments of commercial establishments or offices for the operation of services of any kind". However, the long list of exceptions to the scope of the decree in effect limits its application to certain commercial activities. (Most of the undertakings excluded by the general decree appear to be covered by special regulations; however, there are some which are probably not so covered and therefore Brazil does not enter with those countries in which all commercial activities are regulated.)

Collective agreements, as they affect commercial activities in the *United States of America*, must be mentioned here. (See *supra*, § 3, concerning agreements in industry in the United States.) In some commercial trades collective bargaining is sufficiently widespread to warrant the consideration of provisions set by agreements as representative of general conditions. This is the case in:

Distributive and Personal Service

Barbers

Butchers

Cleaning and Dyeing

Hotel and Restaurant

Laundry

Merchant Tailors

Retail Trade

Miscellaneous

Motion Picture Machine

Operators

2. REGULATION OF SHOPS

(a) *Regulation of Shops in general*

Since persons employed in shops are usually subject to special hours provisions or to exclusion by national regulations, separate

discussion of the cases in which shops are covered by the national regulations will be given here.

Instances in which certain types of shops are excluded from the hours regulations applying to shops in general will be treated below (see *infra* II, § 4 "Other exclusions").

Cases where shops are included in national regulations may be divided into instances where shops are given specific mention in the legislation and instances where they are not specifically included but the general nature of the law renders it likely that they are covered.

(i) *Shops specifically included by Hours Regulations*

In the *Australian* States of Queensland, Victoria and Western Australia, the hours of work of all persons in shops are regulated. The same is true of the general regulations of *Belgium*, *Brazil*, the *Canadian* Province of Manitoba (covering shops in cities only), *Cuba*, *France* (by Decree), *Greece*, *Lithuania*, the *Netherlands*, *New Zealand*, *Portugal*, the Cape of Good Hope, Natal and Transvaal (*Union of South Africa*), the *Swiss* cantons of Valais and Berne, and in the *United States of America* in Montana, where retail stores in towns of more than 2,500 are covered.

The laws of New South Wales and Tasmania (*Australia*) and of *Egypt* cover only women employed in shops.

In *Turkey* wholesale commerce has already been brought under hours regulation, and it is provided in General Order No. 1, issued in 1937, that orders will be promulgated for the regulation of retail trade.

In *Rumania*, permissive legislation applying to women and young persons provides that regulations may be extended to cover hours of work of such persons employed in shops. There is no indication, however, that such regulations have yet been issued.

(ii) *Shops included by Inference in Hours Regulations*

In the following cases, although shops are not specifically mentioned in the legislation, the broad scope of the law in each case renders it likely that they are included.

This is the case in *Austria*, *Argentina*, *Bulgaria*, *Chile*, *Czechoslovakia*, *Finland*, *Italy*, *Latvia*, *Mexico*, *Norway*, *Poland*, *Spain*, the *Swiss* cantons of Basle Town and Ticino, *Uruguay*, *U.S.S.R.*, *Yugoslavia*, *Venezuela* and the *Canadian* Provinces of Alberta and British Columbia.

In *Germany* only salaried employees in shops are covered.

Legislation in the *Canadian* Province of Quebec applies only to women and young persons employed in shops.

In *Denmark* permissive legislation prohibits overtime work beyond hours set by collective agreements. There is, however, as yet no agreement covering retail shops.

In North Carolina (*United States of America*) hours are regulated in shops having eight or more employees. All shops in the State of Pennsylvania are regulated under the general hours law of 1937.

(b) *Regulation of Pharmacies*

General hours legislation specifically covers pharmacies in the following countries: the *Australian* State of Queensland, *France* (by Decree), *Germany* (for wage-earning employees), the *Netherlands*, *Spain*, the *Swiss* canton of Basle Town, and the *U.S.S.R.*

Special enactments in *Brazil* and *Estonia* limit the hours of work of persons employed in pharmacies.

In two States of the *United States of America* special regulations cover work in pharmacies. In *Colorado* hours are regulated in retail drug and medicine stores in cities of over 5,100 population. Hours are also regulated in pharmacies and drug stores in the State of *New York*.

In other countries, although specific mention of pharmacies is not contained in the legislation the broad nature of the laws and the fact that exclusion of pharmacies is not provided for makes it appear that they are covered. This is the case in, for instance: *Argentina*, *Cuba*, *Czechoslovakia*, *Mexico*, *Poland*, *Venezuela*, and *Yugoslavia*.

§ 6. — Regulation of Certain Special Activities

It is necessary to discuss separately the four types of activities to be dealt with under this heading, because the work which they require is usually of a discontinuous and intermittent character. This being so, it is generally the case either that special hours régimes are provided for them in national regulations or that they are exempted altogether from hours provisions.

The four categories of work here to be studied are (1) hospitals and other curative establishments; (2) hotels, restaurants and similar establishments; (3) theatres and public amusements; and (4) liberal professions.

In the case of places of public amusement the justification for

separate treatment in this Report lies less in the discontinuous character of the work performed than in the fact that they are so generally not subjected by national authorities to hours regulation. This may in part be due to the irregularity of periods of activity—and therefore of employment—in amusement undertakings.

Although normally all exclusions from the regulations should be dealt with below (see *infra*, II. "Undertakings or establishments excluded from hours regulations"), in discussing these four kinds of work their inclusion and exclusion under national regulations will, for the sake of clarity, be studied together.

1. HOSPITALS AND OTHER CURATIVE ESTABLISHMENTS

Special provisions for hospitals and similar establishments are found in the hours legislation of many countries.

The International Labour Conference at its Fourteenth Session adopted a Recommendation (Recommendation No. 39) expressing the need for special study of hours of work in curative establishments. Such establishments were defined in the Recommendation as "establishments for the treatment or the care of the sick, infirm, destitute or mentally unfit".

(a) *Hospitals and Curative Establishments covered by Hours Regulation*

(i) *By General Legislation*

General hours regulations cover hospitals in a number of countries. These will be grouped as far as possible according to similarities in the legislation.

Hospitals in general are covered in the following countries:

In *Belgium* the law of 1937 applies to public and private hospitals and clinics.

The *Cuban* 8-hour law applies to hospitals, clinics and similar establishments.

The *Italian* Decree of 1923 specifically covers hospitals, but a later Decree excludes from its hours provisions, except in special cases of particularly difficult work, the staff of hospitals, asylums and sanatoria.

Hospitals in general are likewise covered by the hours legislation of *Bulgaria*, *Mexico*, *Norway*, *Poland*, *Spain*, the *Swiss* Cantons of Basle Town, Valais and Tessin, and the *U.S.S.R.*

In contrast with those countries in which all hospitals fall under the scope of the hours regulations, in *Czechoslovakia* the legislation covers private clinics and hospitals only.

Public hospitals, on the other hand, are included under the *French* legislation and also by the State laws of North Carolina and New York (*United States of America*).

Only certain categories of workers in hospitals are covered in *Luxemburg* where under the law of 1937 salaried employees in hospitals, but not wage-earning employees, are covered.

(ii) *By Special Legislation*

In the following countries hours of work in hospitals are regulated not by the general legislation but by special enactments.

A special Decree issued in 1937 in *Argentina* covers hospitals, clinics, sanatoria, insane asylums and similar establishments in the national capital.

In *Germany* the Hours of Work (Hospitals) Order of 1924 applies to "public and private establishments in which sick and infirm persons who need constant medical supervision or attendance are cared for, and also maternity establishments, infants' homes, and lunatic asylums".

In the *Netherlands* there is also a special Decree covering nursing institutions for the care of the sick.

(b) *Hospitals and Curative Establishments not covered by Hours Regulations*

(i) *Unqualified Exclusion*

Unqualified exclusion of hospitals is found in *Austria* where hospitals of all sorts, maternity centres, insane asylums and thermal establishments are not covered by the Industrial Code and are therefore excluded from the scope of the Act limiting hours of work.

In *Luxemburg* a distinction is made between classes of employees, wage-earning employees in hospitals not being covered by the hours regulations.

Hospitals and work in connection with the care of the sick are definitely excluded in *Portugal*, *Sweden* and North Carolina (*United States of America*).

(ii) *Qualified Exclusion*

In certain countries there is a less definite exclusion of hospitals.

In *Brazil*, although the Hours of Work Decree excludes hospitals,

nursing homes and sanatoria, it is provided that special regulations for such establishments may be made by the Minister.

In *Finland* it is provided in the 8-hour law that the Council of State may permit the exemption of hospitals from its application. Through the year of 1937 hospitals have been so exempted.

In *Greece* it does not appear that hospitals are included under the Hours of Work (Commerce) Decree.

The Hours of Work Act of *Latvia* provides that the hours of work of the domestic staff of hospitals shall be fixed by a special Act.

2. HOTELS, RESTAURANTS AND SIMILAR ESTABLISHMENTS

In a number of countries special provisions are made for the regulation of hours of work in hotels, restaurants and similar establishments.

The Fourteenth Session of the International Labour Conference adopted a Recommendation (Recommendation No. 37) to the effect that countries in which no statutory regulation yet exists should make special investigation of hours of work in such establishments. These establishments were defined by the Recommendation as "hotels, restaurants, boarding houses, clubs, cafés and similar establishments which are exclusively or mainly engaged in providing board and lodging or supplying refreshments for consumption on the premises".

(a) *Hotels, Restaurants and Similar Establishments covered by Hours Regulation*

(i) *By General Legislation*

In the following countries, hotels, restaurants and similar establishments are included by the general hours regulations:

Austria, Belgium (48-hour régime), *Bulgaria, Cuba, Czechoslovakia, Finland, France* (by Decree), *Mexico, the Netherlands, Poland, Spain, and Yugoslavia*.

In the *Australian* States of Victoria and Queensland the hours provisions for shops include hotels and eating houses.

In three *Canadian* provinces—Alberta, British Columbia and Saskatchewan—there is hours regulation for hotels and restaurants.

Hotels and restaurants are also covered under the Shops and Offices Act of *New Zealand*.

In three cantons of *Switzerland*—Basle Town, Tessin and Valais—the legislation covers hotels and restaurants.

Under the Industrial Conciliation Act of the *Union of South*

Africa an agreement applies to tea-rooms, restaurants and catering in certain districts in the Union. The Shops Ordinance in the Cape of Good Hope applies to cafés and refreshment rooms.

In *Denmark*, under the law of 1937, overtime beyond the hours set in collective agreements may be prohibited in hotels and restaurants. At present, however, there is no agreement covering hotels and restaurants, and therefore the law is not effective in regard to them.

It is provided that hotels are covered under the *Italian* 48 hours Decree of 1923. However, a large part of the staff of hotels and restaurants—in particular, waiters, attendants and kitchen staff—have been exempted from the provisions of the law.

In *Portugal* the general legislation covers hotels only.

The general hours law of North Carolina (*United States of America*) includes restaurants but does not cover hotels.

In *Egypt* the hours of work law covering women includes work in hotels, restaurants, pensions, cafés and buffets.

In certain countries hotels and similar establishments, while they are not specifically mentioned in the law, appear by inference to be covered in its general scope. Such is, for example, the case in *Germany*, the *U.S.S.R.* and *Venezuela*.

(ii) *By Special Legislation*

In other countries hotels and similar establishments are covered, not by the general legislation, but by special enactments.

Hotels, restaurants, patisseries and similar establishments are covered in *Argentina* by a special Decree.

A special Decree in *Brazil* applies to hotels, pensions and restaurants.

In *Chile*, although only certain hotel employees are specifically mentioned in the Labour Code, it may be assumed that other establishments, such as restaurants, are also covered by the broad scope of the Code.

In the State of New Mexico (*United States of America*) a special law regulates the hours of male employees in hotels, restaurants, cafés and eating houses.

(b) *Hotels, Restaurants and -Similar Establishments not covered by Hours Regulations*

In the countries cited here hotels, restaurants and similar establishments are specifically not included under the hours of work regulations.

(i) *Unqualified Exclusion*

Unqualified exclusion of hotels and restaurants from the hours legislation occurs in *Greece, Lithuania and Norway*.

(ii) *Qualified Exclusion*

The Conditions of Employment Act of *Ireland* excludes "domestic work" which is defined as including the work of preparing food in a hotel or a restaurant.

In *Luxemburg* wage-earning employees in hotels, restaurants and refreshment houses are not covered by hours legislation, although under the law of 1937 salaried employees in such establishments are covered.

In *Sweden* such work in hotels and restaurants as is connected with the actual service of the public is excluded from the hours legislation.

In the *United States of America*, under the law of North Carolina, work in hotels and domestic service in boarding houses are excluded.

3. THEATRES AND PUBLIC AMUSEMENTS

Provisions for regulating the hours of work of persons employed in theatres and other places of public amusement are contained in a number of national regulations.

A Recommendation (Recommendation No. 38) adopted at the Fourteenth Session of the International Labour Conference requested Governments to make investigations concerning hours of work in "theatres, music halls, cinemas and places of public amusement generally, whether indoor or outdoor".

(a) *Theatres and Public Amusements covered by Hours Regulation*

(i) *By General Legislation*

In certain countries the general hours legislation specifically includes places of public amusement. This is the case in *Austria* (for wage-earning employees only), *Belgium* (48-hour régime), *Chile, Czechoslovakia, France* (by Decree), *Germany, Poland*, and the *U.S.S.R.* (where special provisions in the Labour Code also include the cinema industry).

In *Argentina* hours of work in theatres and cinemas are regulated only in the Federal capital and in the national territories.

In *Egypt* the law covering the hours of work of women applies to theatres, cinemas and music halls.

In other cases, places of public amusement are not specifically mentioned in the legislation but it may be inferred that they are included. This is the case in *Cuba* (here only cabarets are specifically mentioned), *Italy*, *Portugal*, *Venezuela*, and *Yugoslavia*.

(ii) *By Special Regulation*

Special regulation of hours of work in places of public amusement sometimes occurs as, for instance, in *Austria*, and in *Brazil*.

In *Austria* a special law of 1922 limits the working hours of artistic personnel in theatres. Wage-earning employees are covered by the general legislation.

In *Brazil* special regulations cover theatres, cinemas, broadcasting studios and other places of amusement.

(b) *Theatres and Public Amusements not covered by Hours Regulation*

(i) *Unqualified Exclusion*

Definite exclusion for places of public amusement from hours provisions may be provided for in the general legislation. Such is the case in *Norway*, the *Swiss* canton of Valais and the State of North Carolina (*United States of America*).

Exclusion may be inferred, as in *Greece*, under the Hours of Work (Commerce) Decree.

(ii) *Qualified Exclusion*

Exclusion, on the other hand, may be partial or qualified.

In *Bulgaria* an Hours of Work in Commercial Establishments Order of 1933 provides that "until further notice" places of entertainment and amusement shall be exempted from the Order.

In certain cases, only some of the personnel in places of public amusement are excluded.

For example, in *Luxemburg* wage-earning employees in places of public amusement are not covered by hours regulations.

In the *Swiss* canton of Basle Town actors and opera singers are excluded; similarly in *Tessin* "artistic personnel" are not covered.

4. LIBERAL PROFESSIONS

The liberal professions comprise a group of workers whom it is often difficult to regulate with regard to their hours of labour.

Their work cannot usually be confined within fixed limits, due either to its technical nature or to the varying demand for it.

National hours regulations, however, frequently provide either for the inclusion or for the exclusion of persons in liberal professions. Here these provisions will be examined first as regards inclusion and then exclusion of liberal professions, under the following subheadings: (i) persons or institutions directly exercising a liberal profession, and (ii) persons in the employ of a member of a liberal profession.

(a) *Liberal Professions covered by Hours Regulations*

(i) *Persons or Institutions directly exercising a Liberal Profession*

In *Chile* teachers in institutions of learning are covered under the Labour Code.

Considering the broad formula used in the general hours legislation of the following countries and in the absence of any exclusion in the laws, it may be assumed that the liberal professions are covered in: *Argentina, Cuba, France, Italy, Mexico, Poland, Venezuela, and Yugoslavia.*

(ii) *Persons employed by a Member of a Liberal Profession*

In *Austria* the employees of lawyers and notaries are included in the scope of the 8-hour law of 1918.

The law of 1918 of *Czechoslovakia* covers the offices of lawyers, brokers, and civil engineers, placement bureaux, insurance businesses and similar undertakings.

In *Germany* the legislation covering the hours of work of salaried employees applies, because of its general formula, to salaried workers—but not to wage-earning employees—of persons or establishments exercising a liberal profession, such as lawyers or engineers.

The Labour Act of the *Netherlands* specifically includes the offices of persons engaged in a liberal profession, such as lawyers, solicitors, and accountants; the officers of incorporated associations and endowed institutions.

(b) *Liberal Professions excluded from Hours Regulations*

(i) *Persons or Institutions directly exercising a Liberal Profession*

Exclusion of educational or similar work is contained in a number of regulations.

The Hours of Work (Commerce) Decree of 1932 in *Brazil* excludes newspaper editing, educational and relief institutions.

The Workers' Protection Act of *Norway* excludes educational institutions.

In *Sweden* the Hours of Work Act does not cover work connected with poor relief, the bringing up of children, or education.

In the *Swiss* cantons of Basle Town and Valais teachers in public and private educational establishments are not covered by the hours regulations. In Tessin, in addition to teachers, editors are likewise excluded.

(ii) *Persons employed by a Member of a Liberal Profession*

In *Austria* the employees of doctors, dentists, and midwives, and persons employed in public or private institutions of learning are not covered by hours regulations, because the "Industrial Code" exempts them and they were not included in the list of covered activities given in the hours law of 1918.

The *Belgian* law of 1921 (48-hour régime) does not apply to the salaried employees of persons in liberal professions.

II. — UNDERTAKINGS OR ESTABLISHMENTS EXCLUDED FROM HOURS REGULATIONS

In the first part of this chapter the undertakings covered by national hours regulations have been dealt with. It is now necessary to discuss the exclusions of undertakings or establishments which are found in the regulations.

Before beginning to examine the national regulations for the exclusions occurring in them, however, it is necessary to mention those provisions in national hours regulations permitting the exclusion of public or of non-profit-making enterprises from their application. (For the countries in which such establishments are covered by legislation, see *supra*, I. "Undertakings or establishments covered by hours regulations".)

PUBLIC ENTERPRISES EXCLUDED FROM NATIONAL REGULATIONS

In *Brazil* the Hours of Work (Commerce) Decree excludes municipal markets and undertakings carrying on Federal, State or municipal public utility services.

In *Chile* both State and municipal salaried employees are excluded from the Labour Code. State employees, however, are covered by a separate Decree.

The law of 1918 in *Czechoslovakia* excludes the offices of public administration of the State and other public bodies, such as provinces, districts, communes, chambers of commerce and workers' accident insurance funds. However other undertakings carried on by the State, such as railways and the post, telephone and telegraph are covered by the law.

In *Finland*, while undertakings of public bodies are covered by the 8-hour law (see *supra*, I), public administrative departments are excluded from the scope of the Commercial Establishments and Offices Act.

The law of 1937 covering salaried employees in *Luxemburg* excludes work done for the State, communes, other public establishments, and public utilities.

In *Norway* the Workers' Protection Act excludes public administrative departments. The Act provides that "the Crown shall decide whether an undertaking which is carried on by a public authority is a public administrative department".

The Hours of Work Act of *Sweden* excludes work carried on by the State.

The general hours law of North Carolina (*United States of America*) excludes public utilities.

NON-PROFIT-MAKING ENTERPRISES EXCLUDED FROM NATIONAL REGULATIONS

In the *Union of South Africa* only undertakings operating for pecuniary gain are covered under the Factories Act. In the Cape of Good Hope, fairs or bazaars for charitable or educational purposes from which no profit is derived are not covered.

In the *Australian* State of Tasmania prisons, educational institutions and institutions occupied exclusively in works of charity are not covered by the hours regulations. It is further provided, and this provision occurs also in Queensland, that the Minister may exempt from the hours restrictions public exhibitions, bazaars and fairs held for the purpose of charity.

In *New Zealand* it is provided in the Shops and Offices Act: "The Act shall not apply to any bazaar or sale of work or other like method of raising money carried on exclusively for religious, public or charitable purposes for any period not exceeding two weeks."

The *German* legislation covering wage-earning employees in

industrial undertakings does not apply to enterprises not operating for gain. Consumers' co-operative societies are, however, covered by the law.

In the Swiss canton of Valais persons who work for charity in hospitals, sanatoria and similar establishments are not covered by the hours regulations. Although no mention is made of philanthropic undertakings, it may be assumed that they are likewise excluded.

By the law of North Carolina (*United States of America*) charitable institutions are specifically excluded.

The exclusions permitted by national regulations may, in general, be grouped under three headings, after which such exclusions as fall outside these classifications will be discussed. The three most important types of exclusion to be discussed here are: § 1, exclusion of family undertakings; § 2, exclusion of small undertakings; § 3 exclusion of undertakings situated in rural areas.

§ 1. — Exclusion of Family Undertakings

It is a common but not universal practice for countries to exclude from their hours of work regulations those enterprises in which no persons other than the family of the employer or occupier are engaged in the work. Such exclusions are made chiefly because of the difficulty of supervision and control over work done in a dwelling by members of a single family. (For exclusion of members of the employer's family as such, without regard for the nature of the establishments see *infra*, B, II, § 1).

Although exclusion of family undertakings is often allowed, note should be taken of certain cases where such exclusions are not permitted. For example, under the general hours laws of *Austria*, *Czechoslovakia* and *France* family undertakings are not exempted. Similarly, the *Hungarian* special Order covering the woodworking industry provides that "members of the family engaged in industrial work shall be placed on the same footing as employees". Since all undertakings in which there are employees are covered, this means that even those enterprises in which only members of one family work are not excluded.

Exclusions of family undertakings may be (1) unqualified, or (2) conditional.

1. UNQUALIFIED EXCLUSION OF FAMILY UNDERTAKINGS

In a large number of countries, unqualified exclusion from the hours regulations is permitted for undertakings in which no persons other than members of the employer's family are engaged.

This is the case in *Argentina*, *Canada* under the provincial law of *Alberta*, *Finland*, *Luxemburg* (under the Order giving effect to the Washington Convention), *Norway*, *Sweden*, *Switzerland* (under the Federal Factories Act) and also under the Cantonal Laws of *Valais* and *Tessin*, *Turkey* and *Yugoslavia*.

In the *Canadian* province of *Saskatchewan*, work done at home by children, youths and women, all being members of the same family, is not covered by hours regulation.

In *Egypt* the Hours of Work Law covering women provides for the exclusion of family undertakings.

In *Poland*, although the law itself does not provide for the exclusion of family undertakings, judicial decisions interpretative of the law have permitted this type of exclusion.

2. CONDITIONAL EXCLUSION OF FAMILY UNDERTAKINGS

In other countries, exemption of family undertakings may not be so definitely provided for, either because (a) flexibility has been permitted by the wording of the law, or (b) account has been taken of the nature of the work performed.

(a) *Flexibility of Statutory Provisions*

Under the Factory and Workshops Act of *Ireland* it is provided that the Secretary of State may extend the provisions of the Act to cover work done in a family dwelling.

In the *Netherlands* the hours provisions for shops, pharmacies, cafés and hotels exclude work performed in the dwelling of the head or manager of the undertaking who carries on his business without any assistance other than that of his wife or relations by blood or marriage who are living with him, except in cases specified in public administrative regulations.

In *New Zealand* the Shops and Offices Act provides that the occupier of a shop who owns the business carried on therein may apply for exemption from the provisions of the Act for any one of his children as long as no other assistants (the wife or husband of the employer is not considered as an assistant) are engaged in the shop. This amounts to a kind of family exemption.

(b) *Nature of Work performed*

Exemption of family undertakings, taking into consideration the nature of the work and the conditions under which it is performed, occurs in several countries.

In *Belgium* the law of 1921 establishing the 48-hour week excludes establishments where only members of one family under the direction of the father, mother or overseer are employed, provided that the establishment is not considered dangerous, unhealthy or unsuitable, or that there are no steam boilers or machines connected with the work.

The *Bulgarian* Hours of Work Act excludes work done at home by members of the same family, unless it is dangerous or unhealthy.

The Hours of Work Act of *Rumania* does not apply to undertakings in which only members of the same family are employed, provided that such undertakings are not classified as dangerous or unhealthy.

In *Brazil* undertakings in which members of the same family do manual work are excluded from the hours regulation.

§ 2. — **Exclusion of Small Undertakings**

The reasons for which exclusion of small undertakings is so frequently permitted by national regulations are, like those already mentioned with reference to the exclusion of family undertakings, chiefly concerned with the difficulties of supervision and control. There is also the additional reason that it is often considered difficult to allow shorter hours in establishments where there is only a small number of employees.

Undertakings may be judged to be small undertakings for the purposes of exemption from national hours regulations by two main criteria. There are (1) the number of workers employed in the undertaking, and (2) the extent to which it uses mechanical power. Either of these criteria may be employed alone or in combination with the other. The instances in which each is found will be dealt with separately.

In four countries, *Belgium*, *Estonia*, *Ireland* and *Portugal*, small undertakings may be excluded from the hours regulations, but specific definition of the term "small undertaking" is not given.

In *Belgium*, although the law of 1936 bringing into effect the 40-hour week for certain undertakings does not contain specifica-

tions as to the number of workers in establishments to be covered, it was agreed in the Parliamentary Debates that the Government would extend the Act only to undertakings employing a minimum number of workers.

In *Estonia* the law of 1931 excludes small industries situated outside city or town limits. No further explanation of the cases in which this exemption could apply is given.

In *Ireland*, under the Conditions of Employment Act, it is provided that small undertakings, the size to be determined at the discretion of the Minister, may be excluded by him.

In *Portugal* it is provided in the Hours Decree that an application for exemption may be made "in respect of persons employed in small undertakings who are very near relations of their employers".

The exemptions of small undertakings provided for in the national regulations may now be discussed under the two headings already referred to.

1. SMALL ENTERPRISES AS REGARDS THE NUMBER OF WORKERS

Although exclusion of small undertakings as regards the number of workers is frequently permitted, it is important to note here a case where it is specifically not allowed. In *Venezuela*, the Labour Act provides that all undertakings, irrespective of the number of workers which they employ, are to be covered by the Act.

Where exclusion of small undertakings depends on the number of workers employed in them, such computation may be made in a variety of ways. A number of national regulations do not specify the exact criteria which are to be used. However other countries adopt "ordinarily employed", "usually employed", or "employed on a normal average" as means of determining whether the number of employees in an undertaking is sufficient so that it should be included under hours regulations. In other countries, for example *India*, employment over a definite period of time, such as six months or a year, is taken into consideration.

In the following cases, exclusion is permitted where not more than one person is employed:

In *Hungary* the Order concerning the woodworking industry excludes undertakings in which no helpers are employed. In *Norway* the legislation applies only to establishments in which there are employees, an "employee" being defined as "any person who performs work in the service of another elsewhere than in his own home". In the *U.S.S.R.* kiosks and bookstalls in

which there is only one attendant are not regulated as regards hours. By the Hours of Work (Mining) Ordinance of the Yukon Territory (*Canada*), mining operations in which less than two men work are excluded.

In the following cases exclusion is permitted when not more than two persons are employed:

In *Finland* the Ordinance covering industrial workers excludes enterprises in rural localities where not more than two workers are employed. In *New Zealand* restaurant and laundry undertakings in which not more than two persons are employed are not covered by hours limitations.

If not more than three employees are engaged in an undertaking it is excluded in the following cases:

In *Australia*, in the State of Tasmania, a factory is defined as any place where four or more persons, including the head of the enterprise, are employed. Under the Minimum Wage Act of the *Canadian* province of Saskatchewan, places where not more than three persons are employed are excluded. Similarly, in the *Union of South Africa*, factories where less than three full-time employees work are excluded.

In *Sweden* the Hours of Work Act excludes undertakings in which not more than four workers are ordinarily employed.

The general hours law in the State of North Carolina (*United States of America*) excludes places of business where not more than eight persons are employed.

In the following cases, undertakings employing fewer than 10 workers are excluded:

In *Japan* the Factories Act covering women and children excludes factories where not more than ten workers are employed. The Labour Code of *Turkey* excludes industries in which at least ten workers are not usually employed. (Although an Order of 1937 includes some commercial activities in the hours provisions for industry, the ten-worker minimum apparently does not apply to these activities.)

In *Yugoslavia* the Protection of Workers Act excludes from the hours provisions for industrial undertakings those in which less than 15 persons are employed on a normal average. It appears, however, that such undertakings are included under a later order which permits higher hours.

In *India* the group of "unregulated factories" (i.e. those not covered by the Indian Factories Act) includes those which use power machinery but employ less than 20 persons, and those which

do not use power machinery but employ substantial numbers of workers which may rise as high as 50. Only a small number of such factories have been brought under regulations by Local Governments.

The Factories Act of *China* excludes factories where less than 30 workers are usually employed.

The definition of "factory" under the Federal Factories Act of *Switzerland*, combining as it does the size of the personnel factor with other considerations, will be quoted in full. An Order of 1919 interprets the scope of the Act.

"The following shall be deemed to be factories:

- (a) industrial undertakings in which six or more workers are employed with the use of mechanical power;
- (b) industrial undertakings in which mechanical power is not used, but in which six or more workers, including at least one young person, are employed;
- (c) industrial undertakings in which mechanical power is not used and young persons are not employed, but 11 or more adult workers are employed;
- (d) industrial undertakings in which fewer workers than those specified above are employed, but in which there is special danger to the health and lives of workers or which are unmistakably of the nature of factories as regards the manner in which their work is carried on."

Similarly, in *Australia*, under the Victoria Factories and Shops Act "factory" is defined at length.

"Factory" means any office building or place:

in which four or more persons are employed in any handicraft or in preparing or manufacturing articles for trade or sale;
in which one or more Chinese persons are employed in any handicraft or in preparing or manufacturing articles for trade or sale;

in which one or more persons are employed and in which steam, water, gas, oil or electric power is used;

in which one or more persons are employed in manufacturing furniture, bamboo or wicker goods, electric accumulators, bread, pastry confectionery or cereal food for human consumption;

in which electricity exceeding $\frac{1}{2}$ horse-power is generated or transformed;

in which coal gas is made;

and also any clay pit or quarry worked in connection with and occupied by the occupier of any pottery or brickyard.

2. SMALL UNDERTAKINGS AS REGARDS MECHANICAL POWER

In the following cases, exclusion is permitted where no mechanical power is used:

The *Chinese* Factories Act excludes factories not using mechanical power. In *India* factories not using mechanical power are likewise excluded, but authority is given to the local governments to include them.

Under the *Japanese* Factories Act (covering women and children) establishments where one or more machines are used are included. The Factories Act of the *Australian* State of Tasmania does not cover establishments where less than one horse-power of mechanical force is used. The *Luxemburg* Order provides that "any equipment with mechanical power of more than one horse-power shall be deemed to be industrial equipment". In *Norway* hours provisions do not apply in establishments where less than one horse-power of mechanical force is used.

§ 3. — Exclusion of Enterprises in Rural Regions

Exclusion of enterprises in rural areas from hours of work regulations is sometimes made because of the difficulties inherent both in supervision and in limiting hours of work in undertakings whose function it is to satisfy the irregular needs of rural populations.

The experience of *Belgium*, illustrating a trend away from exemption of rural enterprises from hours regulations, should be mentioned here. A Royal Order, issued in 1923, exempted certain employees in hotels, restaurants and similar establishments situated in places having a population of 5,000 or less from the provisions of the 48-hour law. However, by another Order issued on 15 June 1937, this exemption was repealed.

Among the countries which permit the exemption of undertakings in rural areas from hours of work regulations, distinction may be made between (1) those in which definition of "rural region" is contained in the legislation, and (2) those in which the concept of rural undertaking is not defined.

1. LEGISLATION IN WHICH RURAL UNDERTAKINGS ARE DEFINED

When the concept of "rural area" is defined in national legislation, such definition may be based on various criteria. It may depend on the population of the place in which the undertaking is situated; its distance from some set point (for example, the railroad station); or on its being outside, or a certain distance away from, city or town limits.

The hours law of *Bulgaria* does not apply in villages or in towns with a population of less than 10,000. It also excludes the premises of railroad stations situated one kilometre or more from town limits. However, it is provided that the local police may extend the provisions of the Act to all or some of the commercial activities to which exemption is permitted by the Act.

Under the Minimum Wage Act of Saskatchewan (*Canada*) only enterprises in cities and within a 5-mile radius of cities are covered.

In *Estonia*, by the law of 1931, small enterprises and co-operative farms situated outside city or town limits are excluded. However, construction work on such enterprises when it is done by an industrial concern is covered by the law.

The Hours of Work (Commerce) Decree of *Greece* applies as regards its hours provisions only in towns having a population of 10,000 or more for the following undertakings: barbers' shops, grocers' and provision shops, shops dealing in colonial produce, and wholesale establishments (on the coast). The Act also provides that the hours provisions applicable to towns of 10,000 or more may be extended by order of the Minister of National Economy, at the request of the employees and employers concerned, to towns of 5,000 or more population.

The *Italian* Decree of 1923 excludes shop assistants in towns of less than 50,000, unless by order they are included. Barbers' and hairdressers' establishments in towns of less than 100,000 are also excluded unless by order they are brought within the scope of the Decree.

In *Portugal*, by the Hours of Work Decree, commercial undertakings in small centres of population and "industrial undertakings of a conspicuously rural character" may be exempted by order from the hours regulations. On the other hand, direct exemption is given in the Decree to undertakings for constructional work of a domestic or agricultural character not situated in towns or villages classified as equal or superior to the chief place of a

commune, or in the vicinity of urban and industrial centres of considerable magnitude.

2. LEGISLATION IN WHICH RURAL UNDERTAKINGS ARE NOT DEFINED

The *Brazilian* Hours of Work (Commerce) Decree excludes establishments and offices in rural districts. No further definition of rural districts is given.

In *Finland* the Ordinance on industrial work excludes enterprises in rural regions in which not more than two workers are employed and also excludes the construction of houses and buildings for private enterprises in rural regions.

In *Yugoslavia* "rural industries", not further defined in the law, are exempted from the hours limitations.

§ 4. — Other Exclusions

Although the most important and frequent types of exclusion found in the national regulations have already been dealt with, there remain to be mentioned a certain number of less homogeneous exclusions. These will be grouped as far as possible according to similarities.

For instance, an explicit exclusion of domestic service is found in the hours laws of *Cuba*, *Ireland*, *Italy*, *Mexico*, *Spain*, *Tessin* (*Switzerland*) and *North Carolina* (*U.S.A.*).

Another type of exclusion, which is of considerable importance, although found in only two regulations, applies to work done in competition with outside jurisdictions. The Hours of Work Act (covering manual work) of *Quebec* (*Canada*) provides that "no limitation of working hours shall be decreed for industries or works which are subject to the competition of other countries or other provinces". Similarly in *Wisconsin* (*U.S.A.*) it is provided that codes may be issued regulating any trade or industry in which competition is essentially intrastate.

Various forms of construction, building, and similar work are excluded by certain national regulations.

In the *Australian* State of *Tasmania* buildings under construction are excluded. In *Finland* building and construction are also excluded. In *Ireland* the Conditions of Employment Act excludes the construction and maintenance of telegraph and telephone instal-

lations. In *Italy* the upkeep of roads is not covered by the 48-hour decree. In *Portugal* it is provided that undertakings for the construction and repair of lines of communication may be exempted by permit from the hours provisions if sufficient reasons for this are proved and subject to the observance of fair conditions of employment and wages. In *Switzerland* the Federal Factories Act does not apply to constructional work in which the employees of a factory are employed outside the premises of the factory.

Services in connection with the post, telephone and telegraph are sometimes specifically excluded from hours of work regulations.

This is the case in *Finland* and the *Netherlands*. In *Ireland* the maintenance or working of a broadcasting station is not covered by the Conditions of Employment Act. In *Italy* private telephone exchanges are not covered by the 48-hour Decree.

Exemptions of mining from general hours regulations are found in *Brazil* and also in the *Union of South Africa*, where the Factories Act excludes mines and reduction works, except when used as a "factory".

Work in connection with the printing and distribution of newspapers, and similar work, is sometimes excluded by the national regulations.

For example, in the *Australian* State of Queensland booksellers and newsagents are not covered. Newspaper vendors are likewise excluded in *Greece*. The Conditions of Employment Act of *Ireland* excludes newspaper printing and publishing. Printing works are not covered by the Factories Act of *New Zealand*. In Natal (*Union of South Africa*) railway bookstalls are specifically excluded from the hours regulations.

Hours regulations may exclude certain kinds of shops.

The legislation of Queensland (*Australia*), for instance, does not cover persons employed in the following kinds of shops: confectioners, fish and oyster dealers, fruit and vegetable dealers, tobacconists, bread and biscuits shops, undertakers, and any premises for which a licence respecting the sale of intoxicating liquor or in respect of carrying on a pawnbroker's business has been granted.

In *Brazil* barbers' and hairdressers' establishments are excluded from the hours regulations.

In *Sweden* the Hours of Work Act excludes the work of assistants in barbers' and hairdressers' shops, in certain other shops, and in bathing establishments.

Handicraft shops selling their own products are excluded from the hours regulations of *Bulgaria* and *Greece*.

Dairies and shops which sell dairy products are sometimes excluded by national regulations.

In the *Australian* State of Tasmania establishments producing only dairy products are not covered. Dairies and creameries, are not covered by the legislation of *Bulgaria*, *Finland* and *Greece*. Similarly, dairy factories are excluded from the Factories Act in *New Zealand*.

Certain national regulations specifically exclude pharmacies from hours regulations. This is the case in the following countries.

In *Australia*, under the Industrial Code of South Australia, medical dispensaries, dentists' and chemists' laboratories, are excluded from the hours provisions relating to factories.

In *Finland* pharmacies are not covered under the Commercial Establishments and Offices Act.

In *Germany* pharmacies, as regards the employment of assistants and apprentices, are excluded from the hours regulations.

In the *South African* State of Transvaal, chemists' shops are excluded from the hours of work ordinance.

In the *United States of America* the law in the State of Montana applying to retail stores exempts from its provisions registered pharmacists and their assistants.

A few exclusions remain to be mentioned, and will be divided as applying either to industrial or to commercial work.

Exclusions of industrial work not already covered are as follows:

In *Bulgaria* bakers are excluded; in *Finland* wood cutting and tree felling are excluded; in *Germany* salaried employees in industrial undertakings carried on in connection with agriculture are excluded from hours regulation, although wage-earning employees in such undertakings are covered.

In *Italy* the following exclusions under the 48-hour Decree are permitted: ventilating and humidifying plants in public and private buildings; electrically driven water pumps; continuously burning kilns in the lime and cement industry; work in connection with cranes; the extinction of fires; the care of horses in industrial and commercial undertakings; canteen and health services in industrial undertakings; and the watching of rivers, canals and hydraulic works.

In *Japan* the Factories Act provides that "factories for which the application of the present law is not judged necessary may be exempted from it by Imperial Order". The following is quoted from an Imperial Ordinance:

"The provisions of the law covering factories shall not apply

to factories in which is done exclusively work hereunder enumerated, except however factories using machinery, as specified by the Minister of the Interior:

- (i) gelatine;
- (ii) wicker trunks, blinds, bamboo baskets, umbrella frames, Japanese and other articles manufactured of wicker, rattan, bamboo, wood chips or straw;
- (iii) plaited wicker or straw;
- (iv) hats and other articles of vegetable fibre from Formosa and Panama and other similar materials;
- (v) fans, umbrellas and Japanese lanterns;
- (vi) toys or artificial flowers in which the principal substance is paper, string, wadding, bamboo or other tissues;
- (vii) cardboard stencils or boxes, waxed paper tape;
- (viii) clothing, hosiery and other hand-stitched materials;
- (xi) handmade silk and cotton laces;
- (x) embroidery laces, and needlework done by the day."

The Factories Act of *New Zealand* excludes fellmongeries and pelt works; fish curing and preserving; jam factories (during the small fruit season); bacon and sausage casing factories; wool dumping factories; low temperature coal carbonisation factories; and the operation of sheep shearing.

In *Norway* salvage and diving operations are not covered by hours regulation.

The *Swedish* Hours of Work Act excludes work carried out in the workers' homes, or in such other circumstances that the employer cannot be responsible for their supervision. It also excludes work so irregular that it cannot be brought within fixed hours.

The Federal Factories Act of *Switzerland* excludes work carried out by the occupier in person in his undertaking.

The law of North Carolina (*U.S.A.*) excludes plants, cotton gins, cotton seed oil mills, commercial fish and tobacco warehouses, and re-drying plants.

Exclusions of commercial work not already covered are as follows:

In *Brazil* municipal markets and banks are not covered.

In *Bulgaria* travel agencies, concert and theatre agencies, bicycle hiring shops, florists, undertakers, clubs, fairs and assemblies, are excluded.

In *Finland* prisons, canals and swing bridges are excluded.

In *Greece* the following exclusions are allowed under the Hours of Work (Commerce) Decree: confectioners' shops; establishments for the sale of fodder, fuel, petrol and motor requisites; sale rooms for second-hand goods; florists; and undertakers. Work in communal markets is also excluded, provided that the commercial establishments which belong to such undertakings are excluded.

In *Italy* the following commercial activities, on the ground that they are of a discontinuous or intermittent nature, have been exempted from the application of the 48-hour Decree: public baths and mineral water establishments; health or sanitary services; dispensaries; public medical consulting rooms and medical poor relief work centres; work at street petrol pumps.

The Factories Act of the *Union of South Africa* excludes the parts of factories not used as such, and prisons and reformatories. The legislation of the Cape of Good Hope excludes municipal wholesale markets. In Natal places selling intoxicating liquors for use on the premises are excluded from the regulations.

B. — SCOPE AS REGARDS PERSONS

The preceding section dealt with the undertakings or establishments covered by the laws or regulations restricting hours of work. The present section will deal with the categories of workers to whom those provisions apply.

I. — PERSONS COVERED

In order to discover the exact scope of the statutory regulations concerning hours of work it is necessary to know not only what establishments are covered but also what persons are covered.

From the point of view of their scope as regards persons, the systems of legislation may be divided into two main groups:

- (1) those applying in principle to all employed persons;
- (2) those applying only to certain categories of employed persons.

§ 1. — Legislation applying to all Employed Persons

In a large number of laws and regulations the provisions restricting hours of work apply in principle to all the persons employed in

the undertakings covered. These laws and regulations define their scope as regards persons by a general clause, supplemented by a restrictive enumeration of certain exemptions (see below, II: Persons excluded).

When it is stated in this section that the legislation applies to all employed persons, that does not mean that all employed persons in the country concerned are subject to the statutory provisions restricting hours of work; it means that all the workers employed in the undertakings governed by the regulations in question are covered. It is therefore necessary constantly to bear in mind the scope as regards undertakings (see above, section A) in order to determine whether all employed persons, irrespective of the undertaking in which they are employed, or only all the persons employed in a given category of establishments, are covered by the statutory restriction of hours of work.

The terms used in the different laws to define the persons covered vary: some speak simply of all employed persons or of the staff employed in the establishments to which the provisions concerning hours of work apply; others mention all workers and salaried employees; others—but they are exceptional—give a definition of the term “employed person” or indicate the conditions to be fulfilled in order that workers should be subject to the statutory provisions. Most of the laws make no effort to draw a distinction between employed persons or dependent workers on the one hand, and independent workers on the other; it is left to the law courts to deal with borderline cases by defining the connotation of the term “employed person” for the purposes of hours of work legislation.

There are certain laws which, while they may apply to all workers, do not directly define their scope as regards persons but leave the definition to administrative regulations, to the decisions of some authority responsible for the administration of social legislation, or to collective agreements between employers and organisations of workers. These laws will be analysed in § 2.

A survey is given below of the various national laws or regulations which apply indiscriminately to all employed persons; they may be classified into three groups, according to the formulæ which they use for defining their scope as regards persons.

1. LAWS OR REGULATIONS APPLYING TO ALL EMPLOYED PERSONS

The first group consists of laws or regulations applying, in principle, to all the persons employed in undertakings governed by

the statutory provisions on hours of work without further detail being given. This is the case in *Bulgaria, Colombia, Czechoslovakia, Estonia, Finland, Greece, Hungary, Iraq, Lithuania, the Netherlands, Norway, Portugal, Rumania, Uruguay, and Yugoslavia.*

Similarly, the *Belgian Act of 1921* (48-hour week régime) applies to all the staff of the undertakings covered. In the *Swiss Cantons of Basle Town and Ticino* the regulations on hours of work apply in principle to all the staff of the undertakings or activities covered. The legislation of the *U.S.S.R.* also defines its scope as regards persons by a general formula covering all persons employed in the branches of activity to which it applies.

In *Luxemburg* the legislation applies to all persons employed in industrial establishments.

In *New Zealand* the Act restricting hours of work in factories applies to all workers employed in factories. The same is true of the Act governing hours of work in factories in the *Union of South Africa.*

In *Brazil* the legislation applies to all persons employed in the following branches of activity, for which special hours schemes have been drawn up: the cold-storage industry, hairdressers' establishments, and places of entertainment.

The *Egyptian Act* restricting hours of work for workers (other than women) engaged solely in dangerous or unhealthy occupations applies to all persons thus employed.

In the *United States of America* the laws of North Carolina and Pennsylvania apply in principle to all male employees in an establishment or engaged in an occupation covered by the legislation; those of the States of Georgia, Michigan, Mississippi, New Mexico and Oregon apply to all workers employed in the undertakings covered.

In *Canada* all workers are covered by the Dominion legislation applying to certain industries which conclude contracts with the Dominion Government.

In *Australia* hours of work are regulated mainly by the decisions of arbitration courts (on this point, see below, § 2, 5). In practice it is the arbitration awards that show for which categories of persons hours of work have been reduced. The statutory provisions, especially the Factory Acts, which generally fix the weekly hours of work at 48 hours, have largely become obsolete as the result of arbitration awards fixing hours of work at 44 or 40 in the week. The legislation restricting hours therefore applies only where it

provisions in the laws of the different States of the Commonwealth which apply to all workers. In Queensland and Victoria the only statutory limitation of hours of work affecting all employed persons relates to shop assistants; in industry the legislation merely prescribes maximum hours of work for women and young persons (see below, § 2, 4). The Tasmanian Act, on the contrary, applies to all persons employed in factories, without distinction of sex, whereas in shops it restricts hours of work only for women and young persons. In Western Australia the Act fixes hours of work for all persons (men and women) employed in factories.

2. LAWS OR REGULATIONS APPLYING TO ALL MANUAL AND NON-MANUAL WORKERS

The laws and regulations mentioned above apply to all employed persons without distinction. In addition, there are others which make special mention of different categories of such persons although all are covered by the provisions on hours of work.

A very wide formula is used in *Cuba*, where Decree No. 1693 of 19 September 1933 applies to all types of occupation in which the inhabitants of the country engage. The administrative regulations under this Decree, however, use a narrower formula and apply in principle to all manual and non-manual workers. In a Resolution of 13 May 1935 the Secretary for Labour indicated that the provisions concerning the 8-hour day applied to all workers whatsoever and were binding upon them, save for the exceptions expressly mentioned for certain cases. He further decided, by a Resolution of 2 March 1934, that night watchmen and other employees engaged in similar duties came within the scope of the Decree concerning the 8-hour day and its administrative regulations unless the Decree or regulations contained express provisions to the contrary.

Other texts use the expression "manual and non-manual workers". The *Austrian* and *Venezuelan* Acts apply to "manual and non-manual workers" without distinction, as does the *Italian* Decree of 1923 restricting hours of work to 48 in the week. The *Latvian* Act applies to persons employed in manual or non-manual occupations. The *Spanish* Decree applies to all manual and non-manual workers, and other persons employed in the undertakings covered.

In *France* the Act restricting hours of work to 40 in the week applies to manual and non-manual workers of both sexes irrespective of age. It makes no distinctions based on their employment

inside or outside the establishment, or on their relationship with the employer, or on their duties.

The *German* legislation applies to all employed persons, but makes a distinction as regards its material scope between manual and non-manual workers; non-manual workers are covered irrespective of the economic activity in which the employer is engaged, whereas manual workers are covered only when they are employed in an industrial or commercial undertaking; the regulations concerning rest periods also differ for manual and non-manual workers.

The *Swiss* Federal Factory Act speaks only of "workers", but it applies to all persons employed by the manufacturer in his industrial undertaking, whether on the factory premises, or in the workplaces attached thereto, or elsewhere on work connected with the undertaking (Order of 3 October 1919). It has been held by the law courts and by writers on the subject that the term "workers", for the purposes of the Factory Act, includes manual and non-manual workers employed outside the factory.

The *Chilean* Labour Code applies in principle to all manual and non-manual workers in general, but with important exceptions in the case of the latter; the Code does not apply to Government or municipal employees, to salaried employees working for several employers or to salaried employees holding posts for which a university degree or diploma is required.

3. LAWS OR REGULATIONS DEFINING THE CONCEPT OF EMPLOYED PERSONS

The third group which can be distinguished among the laws applying to all employed persons comprises certain laws which give a more or less detailed definition of what is meant by an employed person.

The *Polish* Act applies to all persons employed under a contract of employment. The *Argentine* Act applies to workers working on behalf of a third party. The *Mexican* Labour Act covers all workers without distinction and defines them as being persons who hire out their manual or non-manual services, or both, to some other person under a contract of employment; the only exception laid down in the Act with regard to hours of work is for domestic servants (see below, II, § 3, 3).

4. LAWS OR REGULATIONS APPLYING EQUALLY TO APPRENTICES

The terms used in the laws or regulations to define their scope as regards persons have been outlined above; it remains to be considered whether these expressions include apprentices.

It would seem that the general clauses contained in the laws mentioned above include apprentices. It is, however, difficult to assert categorically that apprentices enjoy statutory protection as regards their hours of work in all these countries.

In the case of a certain number of laws an affirmative reply can unhesitatingly be given because they expressly state that apprentices are covered by the provisions concerning hours of work. In other cases it has been left to the law courts or to legal commentators to state whether the statutory provisions concerning hours of work apply equally to apprentices. The *Yugoslav* Act expressly states that apprentices are covered. In *New Zealand* the definition of "shop assistant" includes apprentices. Similarly the legislation of *Germany* and of *Ireland* applies to apprentices. In the *United States* the legislation of the State of New York concerning pharmacies and drug stores expressly applies to apprentices. In *Austria* the law courts have decided that the legislation on hours of work applies to apprentices, and a similar interpretation has been given in the commentaries on the *Belgian* Act of 1921 concerning the 48-hour week.

§ 2. — Legislation applying to Certain Categories of Workers only

The laws or regulations concerning hours of work that do not apply to all workers without distinction, but are restricted in their application to certain categories, may be divided into five groups: (1) those applying to all manual workers but not to non-manual workers; (2) those applying only to non-manual and not to manual workers; (3) those applying only to persons employed on specified tasks; (4) those applying only to women (and young persons); and (5) those which leave their scope to be defined by administrative regulations, arbitration awards or collective agreements.

1. LAWS OR REGULATIONS APPLYING ONLY TO MANUAL WORKERS

Some of the laws or regulations restricting hours of work include in their scope only "workers" or manual workers.

It is impossible here to attempt to define the distinction between manual workers in the narrow sense and other categories of employed persons; it may be mentioned that the national regulations

which make this distinction generally take as the main criterion the manual or non-manual nature of the work; in most countries which make the distinction a large body of legal distinctions on the subject exists. It must suffice here to give an enumeration of the hours of work laws or regulations applying only to manual workers.

The general regulations for industry as a whole in *Brazil* apply only to manual workers (Decree No. 21364 of 4 May 1932). Similarly the *Swedish* Hours of Work Act applies only to manual workers. The *Japanese* legislation applies only to women (see below, 4) engaged in manual work.

The *Austrian* Mining Act of 1919 applies only to manual workers.

In *Turkey* the Labour Code provides protection for workers engaged either in manual work only or in manual and non-manual work combined; persons engaged solely in non manual work are not covered.

In the *United States*, under the Housing Act of 1937, provisions on hours of work for labourers and mechanics must be included in the contracts entered into between the Housing Authority and contractors for building work under Federal schemes. The laws of many of the States also apply only to persons engaged in manual or mechanical work, as, for instance, on public works in Arizona, Arkansas, California, Colorado, the Federal District of Columbia, Idaho, Kansas, Maryland, Minnesota, and New Mexico.

In *Denmark* the Act introducing the 8-hour day in continuous process factories and the Act prohibiting overtime refer only to manual workers. The same is true of most of the collective agreements fixing the normal hours of work in that country.

There are also laws which, although their scope is restricted in principle to manual workers, can be extended to apply to other categories of employed persons.

For example, the *Belgian* Act of 1936 concerning the 40-hour week applies in principle to manual workers only, but the Government has power to decide what categories of non-manual workers should be assimilated to manual workers for this purpose.

Similarly the *Italian* Decree of 1937 reducing hours of work to 40 in the week was passed solely for the benefit of manual workers in industry, but the Decree can be extended to cover other categories of workers or branches of activity, subject to the possibilities of engaging additional workers and to the requirements of production.

The *Swiss* Factory Act, although referring only to "workers", applies to salaried employees, as was mentioned above (§ 1).

2. LAWS OR REGULATIONS APPLYING ONLY TO SALARIED EMPLOYEES

The second group of laws and regulations whose scope is restricted to certain categories of workers comprises those which regulate hours of work for salaried employees only and contain no similar provisions for manual workers.

Several of the special schemes set up in *Brazil* for various branches of economic activity apply only to salaried employees (*empregados*) and would seem to exclude manual workers from their scope. This is the case, for example, with Decree No. 22033 of 29 October 1932 concerning hours of work in commerce, Decree No. 23084 of 16 August 1933 concerning chemists' shops, Decree No. 22316 of 31 October 1933 concerning pawnshops, Decree No. 23322 of 3 November 1933 concerning hours of work in banks and similar establishments and Decree No. 24696 of 12 July 1934 concerning hotels, boarding houses, restaurants and similar establishments.

In *Luxemburg* the relevant Act applies to all salaried employees, irrespective of the class of undertaking in which they are employed, with the exception of the employees of the State, a municipal authority or any other public institution or public utility institution. Private employees for the purpose of the Act are defined as "all persons of whatever age or sex who, having been appointed to a permanent post or being permanently employed for remuneration in money or for any other form of payment, perform work for some other person which is either exclusively or mainly mental work". Protection is thus provided in *Luxemburg* for all salaried employees, except those specifically exempted, irrespective of whether they are employed in an industrial, commercial or other establishment.

3. LAWS OR REGULATIONS APPLYING ONLY TO PERSONS EMPLOYED ON SPECIFIED TASKS

The scope of regulations is sometimes defined in terms of the nature of the work performed by the persons covered. In that case the restriction of hours of work does not apply to all the persons employed in an undertaking covered by the legislation; they are protected only if, in addition, they are engaged on some specified task in the undertaking or on a task peculiar to a given occupational group. For example, certain laws concerning hours of work in mines do not apply to all persons employed in mines but only to underground workers. Other laws apply only to com-

mercial employees working in shops, whereas the same statutory protection with regard to hours of work is not provided for other commercial employees. In other cases the legislation applies only to persons engaged in production proper or in industrial work or in specified manufacturing processes.

The Act of the *Union of South Africa* concerning employment in mines contains provisions concerning hours of work that apply only to underground workers. Similarly, in *Canada* the legislation of British Columbia concerning metalliferous mines applies only to underground workers, and the same is true of the mining legislation of New Brunswick and Ontario, of the *Australian State of Victoria*, and also of the *United States Act* concerning Government mineral lands.

In the *Union of South Africa* the Shop Hours Ordinance of the Cape of Good Hope applies only to shop assistants, shipping clerks and members of the counting-house staff of shops. In *New Zealand* the scope of the Shops and Offices Act comprises all shop assistants.

The *Brazilian* regulations concerning the cold-storage industry apply to all employed persons provided they are employed permanently in work in artificially cooled premises or are employed alternately in such premises and in premises where the temperature is normal or high. With regard to the legal definition of the term "artificially cooled premises" see above, A, I, § 1. The Brazilian Decree No. 23104 of 19 August 1933 concerning hours of work in bakeries applies to employed persons who are specially engaged in bakery work or similar tasks in the industry itself and not to all persons employed in the industry.

In *Great Britain* the Act governing hours of work in automatic sheet-glass works applies solely to the men and women engaged in the tasks specified in Article 1 of the International Labour Convention concerning hours of work in automatic sheet-glass works (No. 43 of 1934): "Persons who work in successive shifts in necessarily continuous operations in sheet-glass works which manufacture by automatic machines sheet-glass. . . ."

Another example may be found in the Order on hours of work in hospital establishments in the Free City of *Danzig*. This applies only to the nursing staff, which is taken to mean the persons employed under a contract of employment or apprenticeship in a hospital establishment and engaged in nursing or in household or other duties directly connected with the hospital treatment of the sick.

The *Chinese* legislation applies only to persons directly or indi-

rectly engaged in production; according to the rulings of the courts this does not include boys, domestic servants, cooks, etc.

The Government Contracts Act of the *United States* applies to all persons employed by a contractor engaged in work for the Federal Government, but the first administrative regulations issued by the Department of Labor provide that persons in clerical and supervisory positions who do not take a direct part in production are excluded. In some of the States legislation applies only to specified categories of workers; in Connecticut, for example, the legislation concerning hours of work in State institutions applies only to masons, carpenters, painters, electricians, plumbers and firemen.

The legislation of *Ireland* covers all workers engaged in industrial work, and contains a list of examples of such work. The competent Minister has power, however, to exclude certain forms of industrial work. Clerical work is considered to be commercial and therefore does not fall within the scope of the Act even if performed in an industrial establishment.

The *Indian Factories Act* of 1934 applies to persons employed, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for such process or in any other kind of work incidental to, or connected with, a manufacturing process. The Act expressly excludes persons employed solely as office employees in a room or building in which no manufacturing process is carried on. The term "manufacturing process" is defined as including any process involved in making, altering, repairing, ornamenting, finishing, packing or otherwise treating any article or substance with a view to its use, sale, transport or delivery; in pumping oil, water or sewage; in generating, transforming and transmitting power.

4. LAWS OR REGULATIONS APPLYING ONLY TO WOMEN

The fourth group of laws comprises those restricting hours of work for women only (and for young persons), there being no statutory limitation of hours for men.

A number of countries have legislation of this type. In *Great Britain* the Factories Act of 1937 restricts hours of work for women and young persons only. In *Japan* the Act applies only to women and to young persons under the age of sixteen years, provided that they are engaged in manual work. In *Egypt* the general regulations contained in Act No. 80 of 1933 apply only to the employment of

women in industry and commerce. In *Syria* a Decree of 1936 regulates the hours of work of women and young persons in industry.

In several of the *Swiss* Cantons the provisions concerning hours of work apply only to women, as, for instance, in the Cantons of Appenzell (Outer Rhodes), Aargau, Berne, Lucerne, Neuchâtel, St. Gallen, Solothurn and Zurich.

In the *Canadian* Provinces of Ontario and Saskatchewan the laws concerning factories and shops apply only to women and young persons. The same is true of the legislation of Quebec concerning industrial and commercial establishments.

In the *United States* forty-four of the forty-eight States have laws restricting the hours of work of women.

In so far as the statutory provisions restricting hours of work are applied side by side with arbitration awards (see above, § 1, and below, 5) mention should also be made of the legislation of certain *Australian* States. In South Australia the Act restricts the hours of work of women employed in factories. In Tasmania the Act limiting hours of work applies to all women employed in a factory or shop, and the same is true of Victoria. (In Tasmania the hours of male workers are restricted by law in the case of factory workers only, and in Victoria in that of shop assistants only.)

5. LAWS OR REGULATIONS LEAVING THEIR SCOPE TO BE DETERMINED BY ADMINISTRATIVE REGULATIONS, ARBITRATION AWARDS OR COLLECTIVE AGREEMENTS

In certain countries hours of work are not restricted generally and directly by legislation. The maximum hours of work are left to be fixed by administrative regulations, arbitration awards or collective agreements. Consequently the scope of these provisions is not laid down in the legislation, which merely indicates the general principles to which these regulations, awards or agreements must conform as regards the categories of persons covered. It is thus impossible in the case of these countries to discover immediately the scope of the regulations on hours of work as regards persons, since it depends on the varying content of the regulations, awards or agreements within the wider limits laid down by the legislation.

When general laws of this type exist—and these laws usually do not define the scope of their provisions with regard to hours of work but merely determine the powers of arbitration boards—it may be said that the law virtually and indirectly fixes the scope

of the provisions which may be adopted to restrict hours of work, for such provisions must remain within the framework of the law. The authorities responsible for issuing regulations or taking decisions may apply these measures to all employed persons or to certain categories only. It cannot be asserted that all employed persons are subject to the restriction of hours of work unless the regulations or awards apply without exception to all the employed persons whose conditions of employment may be regulated by the authorities in question. Although a large number of such measures have been taken in the countries which use this system, it is nevertheless true that hours of work are fixed only in respect of those categories of workers for whom an award has been given.

In the countries in which hours of work are restricted by collective agreement there is usually no general law in accordance with which the scope of the hours of work regulations may be defined. Those to whom the regulations will apply are determined at the discretion of the contracting parties, who are in theory free to extend or restrict the scope of their agreements. These regulations may become more or less general if it is possible under the law for a collective agreement to be made binding on persons not belonging to the organisations that concluded the agreement.

The scope of the regulations as regards persons is fixed by the authority responsible for giving effect to the covering legislation in certain *Canadian* Provinces and in the *United States*. In *Canada* the legislation of the Provinces of Alberta, New Brunswick, Ontario, and Saskatchewan makes provision for schedules of hours to be applied to all persons employed in the undertakings covered by the Acts. Similarly, in the *United States* the Emergency Relief Appropriation Act of 1935 makes provision for the application of the regulations issued under the Act to all employed persons, that is to say, to manual workers and also to salaried employees, office clerks and non-manual workers.

In the Commonwealth of *Australia* and in the various States, the arbitration courts responsible for the settlement of industrial disputes and the wage boards which also deal with disputes are responsible for fixing hours of work by award. The scope of these decisions is determined by the awards themselves. The awards may apply only to the parties to the dispute, or they may in some cases be extended to cover the whole occupation within a specified area and to persons who were not parties to the dispute. In fixing the maximum hours of work the arbitration boards sometimes have discretionary powers not restricted by law. This is the case, for

instance, in New South Wales and Victoria, but in other States, such as Queensland, they are obliged to observe certain maximum limits laid down in the legislation itself.

In *Great Britain* collective agreements are very widely used for fixing hours of work. In practically every case the normal hours of work laid down in such agreements are 48 in the week or less. In the *United States*, too, there are very many collective agreements restricting hours of work. In some of the *Canadian* Provinces collective agreements may be made binding by the Governor; this is the case, for instance, under the Industrial Standards Act of 1936 in Nova Scotia and the Collective Labour Agreements Extension Act of 1934 in Quebec. The scope of these agreements depends partly on the clauses inserted in them by the contracting parties and partly (if they are made binding on persons who were not parties to the agreement) on the decision of the Governor. In the *United States* it is compulsory, under the Housing Act of 1937, to include in contracts entered into by the authority responsible for giving effect to the Act, provisions concerning the hours of work of mechanics and labourers (see above, § 2, 1).

11. — PERSONS EXCLUDED

Practically all the laws or regulations concerning hours of work, whatever their scope as regards persons, contain exceptions whereby certain categories of workers may be excluded from the protection granted by the legislation. There are only a few countries, such as *Czechoslovakia* and *France*, in which the legislation does not permit any restriction of its scope as regards persons. Some other laws which in principle do not permit exemptions have, in practice, been interpreted by the courts, or by the authorities responsible for the administration of the regulations concerning hours of work, in such a way as to exclude certain categories of employed persons such as employees holding positions of management (see below, § 2, 2 (a)).

The exceptions permitted under the various national laws may be classified in the following five groups:

- (1) Members of the employer's family;
- (2) Persons holding posts implying special responsibility;
- (3) Persons performing specified tasks;
- (4) Home workers;
- (5) Persons whose remuneration exceeds a specified amount.

§ 1. — Members of the Employers' Family

Reference has already been made (A, II, § 1) to the laws which exclude from their scope family undertakings, that is to say, undertakings employing only members of the employer's family. Apart from that exception, which is based on the family nature of the establishment, there are many laws which permit wider exceptions, excluding members of the employer's family from the hours of work regulations even when the employer has other workers in his employment as well as members of his own family. In this case it is not the family nature of the undertaking but the family relationship between the worker and the employer that is the deciding factor.

In this section mention will be made only of those laws which, apart from purely family undertakings, exclude from their scope members of the employer's family. A distinction must be made between different types, for certain laws permit such an exception automatically, whereas others make it subject to certain conditions, such as that the members of the family must live with the employer, or receive no remuneration, or have no contract of employment.

Sometimes the exemptions permitted for family undertakings and those for members of the employer's family, irrespective of the nature of the undertaking, are closely connected with each other. In *New Zealand*, for example, the husband or wife of an employer is not considered as a shop assistant. In the case of such exemptions the nature of the establishment is not taken into account, but the position is not the same in the case of the employer's children. They may be exempted when an application to this effect is made by the father to the factory inspector, but only on condition that no other persons are employed in the shop. Consequently children are exempt—and then only on application being made—only in undertakings which can be considered as family undertakings.

In some countries the fact that family undertakings are exempt has led the law courts to give a wider interpretation to the law and to consider members of the employer's family in general as being exempt from the restrictions concerning hours of work.

Sometimes the exemption of members of the employer's family from the hours of work regulations takes the form of an exception to the provisions in force concerning the hours of opening and closing of shops. In *Bulgaria*, for example, the Order concerning

hours of work in commercial undertakings permits members of the owner's family to work in the undertaking beyond the statutory hours.

Among the laws which exclude members of the employer's family without any further details, mention may be made of the *Estonian Act*, which merely states that it does not apply to members of the employer's family. Similarly, the legislation of the *Netherlands* does not cover work performed by the head or manager of an undertaking or his wife. The members of the employer's family are not covered by the Act of the *Swiss Canton of Ticino*.

In some cases members of the employer's family may be excluded from the scope of the regulations only if they live with the employer. This is the case under the *Italian Decree* of 1937 concerning the 40-hour week, which does not apply to the employer's wife, parents or relatives up to the third degree of consanguinity, living with and maintained by the employer. The *Swedish Act* concerning hours of work does not apply to members of the employer's family living under his roof.

In two countries members of the employer's family may be excluded only if they are not employed under contract. In *Japan* members of the employer's family are excluded from the regulations—which in any case apply only to women—when they have not entered into a contract of employment with the owner of the establishment and when they do not receive wages. In *Uruguay* children employed by their parents in commercial undertakings are not subject to the regulations concerning hours of work if their employment is not permanent or if they do not receive remuneration.

In some cases the fact of not receiving wages is made the condition for excluding members of the employer's family. Those of *Japan* and *Uruguay* have just been mentioned. Similarly, in *Lithuania* the hours of work regulations do not apply to members of the employer's family provided that they are not in receipt of wages. In *Australia* (New South Wales) it is provided that members of a family in the employment of a parent are not considered as employed persons and consequently are not subject to the restriction of hours of work, which otherwise applies to all such persons.

In the cases so far mentioned members of the employer's family are automatically excluded from the regulations. It is also possible for the legislation to leave exclusion of such persons to the discretion of the authorities responsible for the administration of the hours of work regulations. In *Portugal*, for example, the Decree provides that application may be made to exempt from the scope

of any of the provisions concerning hours of work persons employed in small undertakings who are closely related to their employers.

§ 2. — Persons holding Posts implying Special Responsibility

In considering the exemptions laid down in many laws for persons holding posts implying special responsibility, it must always be borne in mind that there are other laws in which these persons are not exempt from the statutory regulations on hours of work. The laws of this latter group sometimes merely contain special provisions permitting these categories of persons to exceed the normal hours in certain cases. Examples may be found in the legislation of *Chile*, *Cuba*, the *Netherlands*, *Poland*, *Uruguay*, and *Venezuela* (on this point, see Chapters III and IV of the Report).

The laws that exclude persons holding posts implying special responsibility from the application of the hours of work regulations may either permit such exemption to be granted or may themselves make such exemption automatic. In *India*, for example, such persons are not directly excluded from the scope of the legislation, but provision is made whereby the local Governments may exclude persons holding positions of management or employed in a confidential capacity, by means of rules defining the scope of such exemptions.

In other cases it is left to the discretion of the authorities responsible for giving effect to the provisions restricting hours of work. In the *Union of South Africa*, for instance, the Factories Act permits the competent Minister to exempt from the provisions on hours of work persons employed as foremen, overseers or managers; the names, duties and remuneration of such persons must be entered in a special list. In *Portugal* application may be made to exclude from the provisions of the hours of work regulations persons employed in a confidential or supervisory capacity or holding positions of management. The National Labour and Provident Institution decides on such applications.

In all the other countries which make provision for exempting persons of this category they are automatically excluded from the scope of the provisions concerning hours of work.

1. PERSONS EMPLOYED IN A CONFIDENTIAL CAPACITY

Among the laws or regulations that permit exclusions under this head a distinction may be made between:

- (a) Those which give only a general definition of the term "confidential capacity", leaving the courts to define its exact scope, and
- (b) Those which indicate the criteria to be used for determining what this expression means.

(a) *Definition by a General Clause*

The laws of the following countries use a general clause to exclude persons employed in a confidential capacity, and leave the courts to define the exact scope: *Brazil, Canada* (certain Provinces), *Colombia, Egypt, Greece, Latvia* and *Luxemburg*.

In *Brazil* persons employed in a confidential capacity are excluded from the regulations concerning hours of work under the Decree concerning industry in general (No. 21364 of 4 May 1932). Decree No. 23322 of 3 November 1933 concerning the hours of work of bank employees does not apply to persons employed in a confidential capacity and receiving a salary higher than that of the grade to which they belong.

Persons employed in a confidential capacity are also excluded from the scope of the legislation of the *Canadian* Provinces of British Columbia and Nova Scotia. The Act of British Columbia stipulates that exemption can be granted only when the person in question is employed solely in a confidential capacity and performs no other work or duties customarily performed by other employees.

The *Egyptian* Act concerning the employment of women does not apply to women employed in a confidential capacity. In *Colombia, Greece, and Luxemburg*, persons employed in a confidential capacity are excluded from the scope of the regulations.

The *Latvian* Hours of Work Act does not apply to persons employed in a confidential capacity. The courts have taken as a valuable criterion for determining what is meant by a confidential capacity the fact that the person in question must always be at the disposal of the undertaking in order to ensure the successful continuance of its activities.

In *Austria* and *Norway* exemption is permitted only for workers employed in a specially confidential capacity. In *Austria* the courts, when interpreting the exact scope of the term "specially confidential capacity" (*besondere Vertrauensstellung*), have decided that the rate of remuneration is not a sufficient criterion; they consider that account must be taken of whether the duties of the worker in question are of fundamental importance for the successful

working of the undertaking and whether the post is one in which the rights and duties of the holder cannot be exactly determined. An attempt has thus been made in the *Austrian* interpretation to restrict the exceptions permitted by the Act, "so as not to undermine the effects of one of the most valuable pieces of legislation for the social well-being of the workers".

A similar formula is used in the *Norwegian* Act, persons employed in a specially confidential capacity being exempt from the application of the regulations concerning hours of work.

In the countries so far mentioned the legislation excludes persons employed in "a confidential capacity" and leaves the courts to define what this means. In the State of Wisconsin in the *United States*, on the other hand, only a certain number of the codes provide that they will not apply to persons employed in a confidential capacity; in this case, therefore, the exclusion is not complete and general but depends rather on the content of each code.

(b) *Definition by Enumeration*

The meaning of the expression "person employed in a confidential capacity" is defined in more or less detail in the legislation of *Belgium*, *Germany*, and *Rumania*.

The *Belgian* Act of 1921 concerning the 48-hour week excludes from its scope persons holding positions of management or employed in a confidential capacity. The meaning of this latter term was left to be defined by Royal Order. The Orders of 28 February 1922, 12 December 1927, and 30 March 1936 contain lists of posts the holders of which are deemed to be employed in a confidential capacity. Some of these apply to all economic activities and others to special industries.

The following are deemed to be employed in a confidential capacity in *any branch of economic activity*: managers, under-managers, factors and works superintendents; authorised agents and holders of powers of attorney; managing or private secretaries and the staff engaged exclusively in the secretarial department; engineers; chiefs and assistant chiefs of managing, commercial or technical services, chief chemists, laboratory directors and their assistants; cashiers; head foremen, works foremen in so far as they can be deemed identical with head foremen; departmental managers, shop foremen and head storekeepers; stable foremen; foremen enginemen, mechanics, stockers, electricians and fitters; foremen repairers, maintenance workers, loaders and transport workers; persons in charge of gas generators; checkers at receiving offices.

Special lists exist for mines, quarries, potteries, the metal and glass industries, the clothing industries, electrical services, banks and insurance companies, and hotels and restaurants.

In the *mining industry* the following are deemed to be employed in a confidential capacity: captains and overmen; deputies or underground supervisors (including shot-firers); yard foremen; chief lampmen. In the quarrying industry, foremen and paying clerks, quarry-masters and their assistants are classified in the same group.

In the *pottery industry* casters (charge hands) and head firemen are included in the list; in the *metal and glass industries* foremen refiners, and in the *clothing industry* the forewomen of dressmaking or millinery establishments.

In *electricity services* the following are included in the list: persons in charge of grids or transforming stations; in electrical offices, works foremen and chief testers; foremen electricians or supervisors; overseers or inspectors responsible for electric plant or for a workshop or yard or for the supervision of the staff of the works department, of the district line from Mons to Boussu or of the general service; testers responsible for supervising the work in laboratories or in the general service; laboratory demonstrators in the general service; foremen in gas works.

In *banks, exchange offices, and insurance companies* the following are deemed to be employed in a confidential capacity: stock exchange clerks, collectors and porters keeping the doors of safes or strong rooms in banks, provided that these are their sole duties; in exchange offices, stock exchange clerks and settling clerks (for collecting cash, bills etc.).

In *hotels, restaurants, and public houses* the following are deemed to be employed in a confidential capacity: qualified head waiters, provided that they have no share in the collective tips and are not required to act as waiters; head cooks having under their orders not less than three men, excluding apprentices; head caterers; chief housekeepers and chief cashiers; qualified floor housekeepers with at least seven chambermaids under their orders or thirty rooms to supervise, provided that they are paid by the establishment and do not act as chambermaids; porters.

The *German* legislation does not apply to confidential clerks with general powers of attorney or to the representatives of an undertaking whose names are included in the commercial register or the co-operative register.

The legislation of *Rumania* also contains a detailed list of cate-

gories of persons considered as being employed in a confidential capacity and therefore exempt from the regulations on hours of work. This list corresponds in the main with that given in the Belgian Orders for all branches of economic activity. The Rumanian list also excludes persons normally responsible for taking delivery of materials, persons in charge of first-aid rooms, chief pattern-makers, chief furnacemen and persons in charge of grids.

2. PERSONS HOLDING POSITIONS OF MANAGEMENT

In the case of persons holding positions of management, a distinction may also be made between:

- (a) Laws which use a general formula and leave the courts to establish the details, and
- (b) Those which enumerate the criteria for determining whether an employee holds a position of management.

Among the criteria used mention may be made of the following: the person in question must have a certain number of workers under him; he must not engage in manual work; his remuneration must not be less than a specified amount; his position must be comparable to that of an employer; he must carry out certain specified duties; his duties must be such that he cannot adhere to a rigid time-table. Generally speaking, these criteria are not used simultaneously in the national laws or regulations.

(a) *Definition by a General Clause*

The exclusion of persons holding positions of management is permitted by a general clause in the legislation of the following countries: *Austria, Belgium, Brazil, Canada* (certain Provinces), *Colombia, Egypt, Estonia, Greece, Hungary, Ireland, Latvia, Luxemburg, the Netherlands, Norway, Rumania, and Switzerland.*

In *Brazil* persons holding positions of management are excluded from the scope of the regulations concerning industry in general and the special regulations for bakeries, commerce, hairdressers' establishments, hotels, boarding houses and restaurants, places of amusement, pawnshops, and banks and similar establishments. In the case of banks it is specified that chiefs and assistant chiefs of departments and employees of equivalent grade are also excluded.

The *Egyptian* legislation concerning the employment of women does not apply to women holding positions of management. In

Colombia, Latvia, Luxemburg, and Norway persons engaged in work of management or supervision are excluded. In *Hungary* the general Act of 1937 exempts salaried employees holding positions of management. Persons holding such positions are also excluded from the scope of the regulations concerning hours of work in the *Canadian* Province of Nova Scotia and in the Yukon Territory. The British Columbia Act stipulates that the duties of such persons must be solely managerial and not include any work or duties customarily performed by other employees.

In the *Netherlands* the work of the head or manager of an undertaking is not governed by the provisions concerning hours of work.

The legislation of *Ireland* considers overseeing, directing and managing industrial work as being commercial work and therefore excludes it from its scope, since it applies only to industrial work as defined by the Act.

In *Greece* it would appear that the regulations concerning hours of work should be interpreted as meaning that persons holding positions of management are excluded from their scope.

The *Estonian* Act may also be considered as using a general formula; it does not apply to directors, managers or persons responsible for directing or supervising operations (see also below, (b), (v)).

For certain countries particulars have been obtained concerning the criteria adopted by the courts in determining the exact scope of the term "position of management".

The *Austrian* Act merely excludes managing employees without further details; the courts have held that "managing employees" (*leitende Angestellte*) means persons who represent the employer in dealing with other employed persons, possess a certain authority delegated to them by the employer, and bear a share of the responsibility for the undertaking.

The *Belgian* Act of 1921 concerning the 48-hour week excludes not only persons employed in a confidential capacity but also persons holding positions of management. Whereas, however, persons belonging to the former group are defined in detail by means of the Royal Orders mentioned above, no such definition is given of the term "position of management". It may be noted however, that the list of persons employed in a confidential capacity, reproduced above, includes persons who might be considered as having managerial functions. According to the decisions of the Belgian courts the exception made in respect of persons holding positions of management should be interpreted in a restrictive manner.

In *Rumania* the Act does not apply to persons holding positions of management. The regulations issued under the Act contain an exhaustive list of persons excluded as being employed in a confidential capacity (see above, 1), and this list includes certain categories which in other countries would be considered as holding positions of management.

The *Swiss Federal Factory Act* does not apply to persons entrusted by the manufacturer with important duties in the running of the undertaking. Legal commentators point out that the title of the post held by a worker is not a decisive criterion; account must be taken of the degree of special responsibility which the worker has in the management of the undertaking and the fact of his being entitled to take important decisions.

In *Poland* the law courts have decided that the Hours of Work Act does not apply to persons holding positions of management, that is to say, persons who are not obliged to remain at the employer's disposal in or outside the workplace.

(b) *Definition by Enumeration*

A certain number of laws contain a more or less detailed enumeration of the conditions to be fulfilled before an employer can be exempted from the hours of work legislation on the ground that he holds a position of management.

(i) *The Employee must have a Certain Number of Workers under his Orders.*

The *German* legislation, in excluding from its scope employees holding positions of management, restricts the number of these exemptions by defining such employees as those who normally have not less than twenty salaried employees or fifty manual workers under their orders and whose remuneration exceeds a certain limit (see below, (iii)).

In the *Union of South Africa* the Shop Hours Ordinance of the Cape of Good Hope does not apply to persons employed solely as managers with one or more assistants under their orders or as department managers in a retail business with at least one assistant under them; the staff of the directorate is also excluded.

According to the *Swedish* Act on hours of work, foremen and other employees having workers under their orders are not considered as workers for the purposes of the Act.

(ii) *The Employee must perform only Non-manual Work*

The *British Factories Act*, which contains provisions concerning hours of work for women only, excludes women holding responsible positions of management and not ordinarily engaged in manual work.

The *Italian Decree of 1923* concerning the 48-hour week excludes supervisors who do not actually perform manual work, on the grounds that such persons are engaged in occupations which require only discontinuous work or mere attendance or watching.

(iii) *The Employee's Remuneration must exceed a Specified Amount*

As was already mentioned, the *German* legislation considers that an employee holds a position of management when his annual remuneration exceeds the limit for liability to insurance under the salaried employees' insurance scheme (7,200 RM.).

In *New Zealand* persons entrusted with the general management or control of a shop are not considered as shop assistants if their weekly wage exceeds £6 (£4 in the case of women).

In the *United States*, in *Pennsylvania*, the legislation does not apply to persons holding a position of management whose weekly wage exceeds \$25.

(iv) *The Employee must hold a Position comparable to that of an Employer*

The *Bulgarian Act* considers managers, directors, and heads of undertakings as employers, and they are therefore excluded from its scope.

The *Yugoslav Act* does not consider as workers, and therefore as falling within its scope, persons entrusted with more important duties (such as managers, accountants, cashiers, engineers, etc.).

In *Turkey* the *Labour Code* considers managers, administrative employees, and, in general, all persons responsible for directing operations as representatives of the employer; it would therefore seem that the provisions concerning hours of work do not apply to them.

In *New Zealand* the *Factory Act* treats persons responsible for management as employers and therefore excludes them from its scope.

(v) *The Employee must be entrusted with Duties for which Hours of Work cannot be strictly limited*

The *Spanish Decree of 1931* does not apply to directors, managers or other officials of undertakings who, on account of the nature

of their duties, cannot be required to observe strictly limited hours of work.

In *Uruguay* one director or manager in any commercial or industrial undertaking and the technical directors of industrial services are excluded from the regulations concerning hours of work if their duties are not governed by a regular time-table. On the other hand, salaried employees and workers who are not managers in the strict sense of the term but who have certain managerial duties and are not under the constant direct supervision of the head of the undertaking or the employer are subject to special provisions concerning their hours of work.

In *Estonia*, where there is a general formula excluding managers and heads of undertakings from the statutory regulations on hours of work, the Act does not apply to persons engaged on irregular work the duration of which cannot be limited.

(vi) *The Employee must perform Certain Specified Duties*

In *Switzerland* the legislation of the Canton of Basle Town does not apply to the directors or heads of departments in public administrative offices, institutions or undertakings, or to persons responsible for the management of joint stock companies, co-operative societies or associations (members of the board of directors), or to managing clerks who actually run an undertaking or have a share in its management. The Act of the Canton of Ticino does not apply to managers, chiefs of service and managing clerks of public or private undertakings or associations. The Workers' Protection Act of the Canton of Valais excludes employers, managers, chiefs of service, managing clerks and higher employees of public or private undertakings.

The *Italian* Decree of 1923 concerning the 48-hour week does not apply to the managing staff of undertakings. The administrative regulations define this term as meaning persons in charge of the technical or administrative management of the undertaking or of a branch of the undertaking who are directly responsible for the conduct of the work, that is, administrators, managers, technical or managing directors, chief clerks and heads of sections who perform work in exceptional cases only.

In *Argentina* Act No. 11544 of 12 September 1929 concerning the 8-hour day does not apply to persons holding positions of management or supervision. The administrative regulations contained in the Decree of 11 March 1930 give the following definition: " ' persons holding positions of management or supervision ' shall

yards, mechanics, electricians and fitters, and assistant heads when replacing them; heads or persons in charge of the staff employed in the repair, upkeep, maintenance and traction services, and assistant heads when replacing them, and persons in charge of shifts, inspectors and overseers; foremen not engaged in manual work; timekeepers; drivers of motor cars for the management” (Decree No. 564 of 31 December 1930).

The persons enumerated in these two Decrees are not deemed to be exempt unless they are employed solely on the tasks proper to their posts.

Decree No. 91395 of 29 September 1936 concerning the staff of hotels, restaurants, pastrycooks’ establishments, etc. in the Federal Capital gives the following definition of persons holding positions of management or supervision: “ in hotels, the manager and assistant manager, one accountant, the chief cashier, the chief reception clerk, the head cook, one head waiter (or an employee appointed to replace him), and one chief supervisor; in restaurants and pastrycooks’ establishments, the manager, assistant manager, chief cashier, head cook, one head waiter (or an employee appointed to replace him) and the chief pastrycook; in cafés and bars, the manager or person in charge, the chief cashier, if there is more than one, and the head waiter, provided that he does not himself serve in the café ”.

Decree No. 111370 of 4 August 1937 concerning hours of work in hospitals and similar establishments in the Federal Capital considers the following as holding positions of management or supervision: “ the director, chief of service or chief of dispensary, chief pharmaceutical officer, chief laboratory officer, or chiefs of similar services connected with the care of patients; head nurse; doctors, dentists, house surgeons and midwives; members of religious orders; manager, accountant, chief of the administrative service or section of the establishment; head supervisor, head cook and head of the laundry service ”.

3. PERSONS HOLDING POSITIONS OF SUPERVISION

The term “ positions of supervision ” is used in the various national laws or regulations to cover a great variety of duties. Sometimes it implies the supervision of staff and sometimes the supervision of property, machinery or plant. When no further details are given, as is the case in *Colombia, Estonia, Ireland, Latvia, Luxemburg, Norway, Portugal, the Union of South Africa* and the

United States (for example, Illinois), it is difficult to know in what sense the term is used. In *Brazil*, too, the term "supervision" is left undefined; the various Decrees merely exclude from their scope persons in positions of supervision or control: this is the case in the Decrees concerning hours of work in industry, commerce, pawnshops, banks, and hotels, boarding houses and restaurants. The Decree concerning hotels, etc. states that the term in question does not include the work of telephonists employed in the establishments to which the Decree refers.

The laws excluding persons holding positions of supervision without giving any further definition have been grouped with those excluding persons holding positions of management, for in many cases the term "positions of management or confidential positions" includes persons responsible for the supervision of staff, such as foremen. This is the case, for example, in *Belgium* and *Rumania*.

The *Rumanian* legislation does not expressly mention persons holding positions of supervision, but the list of persons excluded on the ground that they are employed in a confidential capacity (see above, 1) includes persons engaged in supervision, such as caretakers, porters, persons checking the arrival and departure of workers, and watchmen having definite stations; caretakers are also excluded as being engaged in domestic work. As regards the *Argentine* legislation, the meaning of the term "position of supervision" has been indicated above in § 2; it refers to the supervision of staff and not of plant. It may be mentioned, however, that the Decree of 11 March 1930 specially includes among those exempt from its decisions as holding subordinate posts of supervision, night watchmen, porters, liftmen and persons in similar occupations; Decree No. 563 of 31 December 1930 concerning the staff of telephone, telegraph and wireless telegraphy services excludes office keepers, and Decree No. 564 of the same date concerning gas and electricity undertakings excludes janitors, doorkeepers, night watchmen and caretakers.

In the laws that will be analysed below the term "supervision" must be taken as meaning the supervision of plant.

In *Finland* the Act concerning hours of work in commercial establishments and offices grants exemptions to watchmen, caretakers and similar persons.

According to regulations issued under the Government Contracts Act in the *United States*, that Act does not apply to persons in custodial and supervisory positions which can at no time be

particularly associated with production. Similarly, in the State of North Carolina, persons holding positions of supervision are not covered by the legislation. In Wisconsin, the codes do not as a rule apply to persons holding supervisory positions.

In the *Union of South Africa* caretakers are excluded from the scope of the Shop Hours Ordinance of the Cape of Good Hope. The *Estonian* legislation does not apply to caretakers, firemen or porters who do not work for specified hours but must be present and remain in a lodge or a special part of the premises. In the *United States*, the legislation of the State of Oregon concerning the 10-hour day excludes from its scope watchmen and firemen.

The *Spanish* Decree of 1931 does not apply to certain categories of persons engaged in supervisory or similar tasks. A restrictive enumeration is given, including the hall porters of private houses and persons who perform similar duties and live in the building which they must supervise; gamekeepers and other persons responsible for supervising a certain area in which they live, provided that their work is not continuous; persons engaged in temporary supervisory work for short periods, such as those employed to guard crops before the harvest or other similar cases.

The *Italian* Decree of 1923 concerning the 48-hour week does not apply to occupations which owing to their nature or the special circumstances of the case involve discontinuous work or mere being in attendance or watching. Very detailed regulations on this point have been issued at various times indicating the occupations to which the restriction of hours of work does not apply. The list includes caretakers, day and night watchmen, customs guards, hall porters, messengers, doorkeepers, attendants, grooms, stablemen and persons employed in the care of horses and draught animals in commercial and industrial undertakings; persons employed in the supervision of drying and refrigerating plant or of apparatus for pumping up and distributing drinking water. These exceptions were retained in the Decree of 1937 concerning the 40-hour week, section 3 of which specifies that it does not apply to persons employed on intermittent work whose activities are discontinuous or who are merely required to be in attendance or to act as watchmen. These persons must be defined by Decree of the Minister of Corporations, who is also responsible for fixing their maximum hours. In the meantime, the former provisions concerning discontinuous work or mere attendance or watching were retained in force by section 15, paragraph 2, of the Decree.

§ 3. — Persons performing Specified Tasks

Some laws concerning hours of work exclude from their scope certain categories of persons who perform specified tasks. The tasks in question are generally those requiring technical qualifications or carried on outside the undertaking to which the legislation applies, or domestic tasks. It must not be forgotten, however, that there are only certain laws which permit such exemptions; in other countries persons engaged in such work are subject to the provisions concerning hours of work, but certain special exceptions are permitted with regard to them.

1. TASKS REQUIRING TECHNICAL QUALIFICATIONS

Many laws exclude from their scope technical workers or specialised workers. The categories of persons thus excluded may be defined by a general formula or by an enumeration of the criteria to be used for defining them.

(a) *Definition by a General Clause*

The *Brazilian* Decree No. 21364 of 4 May 1932 concerning hours of work in industry excludes persons performing specialised technical tasks, without giving any further details.

In the *Canadian* Province of Alberta a Code under the Department of Trade and Industry Act covering commercial printing excludes technical employees.

The *Yugoslav* Act does not consider as workers for the purposes of its scope persons entrusted with more important tasks; it mentions as examples managers, accountants, cashiers, engineers, etc.

In *Rumania* certain categories of persons employed on work requiring considerable technical qualifications are deemed to be employed in a confidential capacity and are on that account excluded from the scope of the provisions concerning hours of work (see above, § 2, 1).

In the *U.S.S.R.* it is not the legislation itself that excludes persons engaged on work requiring technical qualifications. An Order of 13 February 1928 states that the agreements entered into by the trade unions and the competent economic authorities may contain lists of occupations, duties and tasks for which the length of the working day is not fixed. This system of unspecified working hours may be applied to persons whose working time

cannot be exactly calculated (persons giving consultations, instructors, agents, etc.), to persons who fix their hours at their own convenience, and to persons whose hours of work must on account of the nature of the work be divided up into periods of varying duration.

(b) *Definition by Enumeration*

The special regulations in *Brazil* concerning bakeries do not apply to specialised technical workers; according to Decree No. 23104 of 19 August 1933 master bakers and chiefs of service fall within this category.

The *Swedish* Act does not apply to draughtsmen, accountants and assimilated persons nor to office keepers and other minor office employees; in this way practically all salaried employees are excluded from the scope of the legislation.

The legislation of *Colombia* does not apply to persons having financial responsibility.

According to the regulations issued under the Government Contracts Act of the *United States*, that Act does not apply to persons in clerical positions. The same group is excluded from the legislation of the State of Georgia concerning cotton and woollen manufacture and that of South Carolina for different branches of industry. In Illinois the legislation concerning public works does not apply to persons in administrative positions.

The Workers' Protection Act of the Canton of Valais in *Switzerland*, which includes in its scope hospitals, sanatoria and nursing homes, does not apply to doctors, midwives or technical staff attached to such establishments.

In *New Zealand* the Shops and Offices Act excludes from its scope engineers and electricians. There are similar exemptions in the *United States* in Georgia and South Carolina, but in the State of New York the legislation concerning motion picture and theatre employees applies specially to engineers. Persons in the learned professions, office employees and clerks in commercial undertakings are not covered by the legislation of North Carolina. Persons in the learned professions are also excluded from the legislation of Pennsylvania, but only on condition that they earn more than 25 dollars a week.

The *Chilean* Labour Code does not cover persons holding positions for which a university degree or diploma is required, but this does not apply to persons in one of the liberal professions working for a single employer.

The *Italian* Decree of 1923 concerning the 48-hour week does

not apply to occupations which, owing to their nature or the special circumstances of the case, involve discontinuous work or mere being in attendance or watching. As has been seen, detailed lists have been issued from time to time enumerating these occupations. The lists include, among others, persons in charge of weighing machines, warehousemen, storekeepers and their assistants; foremen; persons employed in electrical works, in the supervision of machinery, in connection with the transformer and switchboards, in the supervision and upkeep of lines and hydraulic plant; persons employed in the supervision and working of vacuum-producing apparatus, filtering apparatus, distilling apparatus, oxidising, reduction and calcining furnaces in the chemical industries, sulphuric and nitric acid plant, apparatus for the electrolysis of water, and apparatus for the compression and liquefaction of gases; works foremen and the staff of beet-receiving offices in the sugar industry; persons in the bleaching and dyeing industry employed exclusively in the supervision of self-closing kiers and boiling and lixiviation apparatus, and in the production of chlorine by electrolytic methods with automatic apparatus; hotel employees whose duties bring them into contact with guests, provided that their work is discontinuous (office employees such as chief and assistant reception clerks, cashiers and secretaries, with the exception of those who are not in contact with the guests); workers in charge of the operation and supervision of machines for cutting marble; workers employed solely in the rearing and watching of animals used for the preparation of medicinal products or for scientific experiment in undertakings or institutions for the manufacture of serums.

2. EXTERNAL SERVICES

In many countries the legislation concerning hours of work does not apply to persons employed in external services, and more particularly commercial travellers. This is because it is impossible in practice to fix any general limit to the hours worked by these persons, who work outside the establishment, and probably also because it would be very difficult to keep a check on their hours of work.

A very general formula covering different categories of external services is used in *Argentina*, *Australia* (Victoria), *Brazil*, *Ireland*, *Japan*, and *Switzerland*.

The *Brazilian* Decree No. 22033 of 29 October 1933 concerning

the hours of work of commercial employees does not apply to persons engaged in work of external supervision, travellers, representatives, salesmen, buyers or collectors working outside the establishment. Similarly, Decree No. 23316 of 31 October 1933 and No. 23322 of 3 November 1933, concerning the hours of work of employees in pawnshops and in banks respectively, do not apply to persons permanently employed in external services.

In *Japan*, too, such persons remain outside the scope of the hours of work regulations.

The *Swiss* Federal Factory Act does not apply to persons entrusted by the manufacturer with the outside representation of the firm.

The *Argentine* Order No. 16115 of 16 January 1933 excludes collectors, inspectors of collecting work, and salesmen paid exclusively on commission, as being persons holding positions of management or supervision.

As the *Irish* legislation applies only to industrial work in industrial undertakings, it may be concluded that industrial work outside such undertakings is not covered. In the *Australian* State of Victoria, the regulations concerning shop assistants do not apply to carters or porters.

In other countries only commercial travellers and representatives are excluded. The *Belgian* Act of 1921 concerning the 48-hour week does not apply to commercial travellers; the courts have held that the form of remuneration (on a commission basis or otherwise) should not be taken into consideration in determining whether an employee is a commercial traveller or not. If the person in question only travels at intervals and is otherwise employed in the office, the Act applies to him only during such time as he works in the office ¹.

In the *Union of South Africa* the Shop Hours Ordinance of the Cape of Good Hope excludes travellers from its scope. The same is true of the *Swedish* legislation. In *Switzerland* the legislation of the Canton of Ticino also makes an exception for commercial travellers and representatives, and the Workers' Protection Act of the Canton of Valais does not apply to travellers.

The *Italian* Decree of 1923 concerning the 48-hour week does not apply to commercial travellers, and a Ministerial Circular of

¹ Cf. P. HORION: *La durée du travail industriel et commercial et les congés annuels payés*. Brussels, 1937, p. 36.

30 December 1923 extended this exclusion to employees who could be assimilated to commercial travellers, as, for instance, certain types of insurance agents. In *New Zealand* the Shops and Offices Act does not cover commercial travellers. In the *United States* the legislation of North Carolina does not apply to commercial travellers. The *Egyptian* Act concerning the employment of women does not apply to women travellers and commercial representatives in so far as they work outside the establishments. The same condition is laid down in the legislation of *Finland* and *Norway*.

3. OTHER TASKS OR OCCUPATIONS

In addition to workers engaged on technical tasks or working in external services, certain regulations exclude other categories of workers. It is impossible to find a common denominator for these exemptions beyond saying that they are granted for certain types of work or for certain occupations for which it is deemed impossible or undesirable to fix maximum hours.

In many countries cleaners are excluded. The *Swiss* Federal Factory Act, for example, does not apply to persons employed solely in cleaning operations outside the working hours of the factory. Similarly, in the *Union of South Africa* the Shop Hours Ordinance of the Cape of Good Hope excludes from its scope persons employed solely in cleaning or for the prevention of fire. In *New Zealand* the Factories Act exempts workers employed in getting up steam for machinery or in making preparation for the work of the factory. Cleaners are also excluded from the scope of the legislation of Georgia in the *United States*.

In other countries the laws expressly exclude domestic servants from the scope of the regulations on hours of work. This may be done by a general formula covering all domestic servants or by an enumeration of the occupations considered as typical for domestic work. The first of these solutions is adopted, for instance, in the legislation of the following countries: *Argentina*, *Ecuador*, *Latvia*, *Spain* and the *United States* (New York). In other cases more detail is given. In *Colombia*, for example, persons engaged in domestic service are excluded because of the intermittent nature of their work. In the *Netherlands* all domestic servants would seem to be excluded, for the legislation does not apply to work performed "outside open or enclosed places intended for the carrying on of an industry, in the undertaking of the person with

whom the person performing the said operations resides, in so far as such operations are usually performed also in a household or stable outside any undertaking”.

In *Rumania* the legislation does not include persons employed on domestic tasks, such as caretakers, servants, coachmen, chauffeurs, etc.

The Labour Code of *Venezuela* excludes from the scope of the hours of work provisions domestic staff such as chauffeurs, maid-servants, cooks, children’s nurses, etc. In *Mexico* the Eight-hour Day Act does not apply to persons employed on domestic work; this exception does not cover domestic servants working in hotels, inns, hospitals or other similar commercial establishments. Similarly, in *Uruguay* the legislation exempts domestic servants only when they are in private employment. The same is true of the *Cuban Decree*.

In *Italy* the Act of 1923 concerning the 48-hour week excludes from its scope persons employed on domestic work; the administrative regulations define this as meaning “all work connected with the normal conduct of the household arrangements of a family or community; e.g. a boarding school, college, convent, monastery, barracks or penitentiary”. A Ministerial Circular of 30 December 1923 points out that the staff engaged in domestic work includes not only persons performing manual tasks (servants, cooks, etc.) but also those whose work is closely linked up with the life of the family (tutors, nurses, etc.)

In *Switzerland* the Workers’ Protection Act of the Canton of Valais excludes persons employed in private houses as domestic servants or day workers, and in general the staffs of hospitals, sanatoria, infirmaries, and nursing homes when they work for charity and do not receive a normal wage for their work.

Other exemptions apply to different categories of workers. In *Turkey*, for example, the Labour Code does not cover officials and employees, irrespective of their duties, whose wages or salaries come out of public funds. In the *U.S.S.R.* certain categories of workers employed in retail trade may be excluded by agreement between the employer and the competent occupational organisations; these categories include workers employed alone as salesmen or saleswomen in booths or stalls, hawkers, agents for the distribution of publications, advertising agents and collectors of agricultural produce. A special clause in the *German* legislation excludes chemists’ assistants and apprentices.

§ 4. — Home Workers

The laws or regulations restricting hours of work usually exclude home workers from their scope. There are very few cases in which these workers' hours are determined by legislation. One example is the *Belgian* Royal Order of 30 March 1936 for the reduction of the hours of work of persons engaged in the diamond industry, which applies to persons working at home. The legislation of the *Swiss* Canton of Basle Town covers home work.

Other laws merely prohibit employers from prolonging the statutory hours of work by giving workers work to do at home; in such cases no protection in the strict sense of the term is granted to home workers. This is the case in *Finland*, *Germany* and *Rumania*. In *Czechoslovakia* a Circular of the Minister of Social Welfare of 21 March 1919 stated that the Eight-hour Day Act did not apply to home work in so far as such work could not be considered as the continuation of work done in the factory or workshop. In *Belgium* the report submitted to the legislative authorities on the enforcement of the 1921 Act concerning the 48-hour week pointed out that the head of an undertaking was not permitted to employ at home on work of any type whatsoever, workers who had already completed an 8-hour day in their workshops.

In most countries there is no restriction on the hours of work of home workers.

The *Estonian* legislation expressly states that it does not apply to persons employed in their homes or under conditions such that the employer cannot supervise their work. The *Swedish* Act does not apply to work carried on in the worker's home or under conditions such that the employer cannot be held responsible for the working conditions.

In *Belgium*, where the 48-hour week legislation does not apply to home workers, the courts have held that a worker is a home worker when he carries out his tasks in a place of his own choice—that is to say, in some place or premises not assigned to him by the employer, so that he is not working under the authority and supervision of the employer¹.

The *Swiss* Federal Factory Act does not apply to workers employed solely in their own dwellings. Commentators point out that the Act therefore does not apply to home workers. Similarly, in the Canton of Ticino, home work does not fall within the scope of the legislation.

¹ Cf. HORION, *op. cit.*, p. 38.

In *Chile* employees who work at home, provided that they do not live with the employer, are not subject to the provisions concerning hours of work.

In *Ireland* the Act does not include home workers even if they are engaged in industrial work covered by the Act. It defines "out-worker" as being "a person who, for salary or wages, does industrial work in his own home or in some other place not under the control or management of his employer on articles given out by, or provided at the expense of, such employer for delivery to such employer or to some other person nominated by such employer after the doing of such industrial work".

In *Norway* the restriction of hours of work is deemed to apply only to persons who work in the service of others elsewhere than in their own homes.

In *Poland* there is no legislative provision on the subject, but the courts have held that the provisions concerning hours of work do not apply to home workers.

Some laws add conditions governing the exclusion of home workers. The *Rumanian* legislation, for instance, does not apply to home workers working alone or with the help of members of their own family only. Similarly, in *Italy* a circular of the Ministry of National Economy of 30 December 1923 stated that the 48-hour week does not apply to persons working in their homes with the help of members of their own family only. In *Turkey* the Labour Code in general, and consequently also the provisions on hours of work, do not apply to home work by members or close relatives of one family without the help of other workers.

§ 5. — Persons Whose Remuneration exceeds a Specified Amount

In some countries the amount of the remuneration is taken as a criterion for excluding certain persons from the provisions concerning hours of work. It was pointed out above that remuneration is one criterion in *Germany* for determining whether a person holds a position of management; an employee is deemed to hold a position of management and therefore to be exempt from the statutory regulations on hours of work if his annual remuneration exceeds the limit laid down for liability to insurance under the salaried employees' insurance scheme, which is 7,200 RM. Similarly the *Brazilian* Decree concerning the hours of work of bank employees does not apply to persons employed in a confidential capacity whose salary is higher than that of the grade to which they belong.

It was also pointed out that in *New Zealand* persons employed in the general management or control of a shop and earning more than £6 a week (£4 in the case of women) are not deemed to be shop assistants. In the *United States* the legislation of Pennsylvania does not apply to persons engaged in a learned profession and earning more than \$25 a week.

In *Cuba* the provisions of the Decree concerning the 8-hour day do not apply to persons who are partners in or receive a share in the profits of the undertaking in which they work, provided that the total amount received in the form of salary and share in the profits is not less than 2,400 pesos a year.

In *Uruguay*, workers whose remuneration in the form of wages or a share in profits exceeds 3,000 pesos a year are not subject to the restrictions concerning hours of work. This rule applies not only to wage earners proper but also to partners, irrespective of the size of the undertaking. There is another type of exemption which applies only to partners in comparatively small undertakings. In this case the exemption varies according to the amount of the profit which the partner may claim; if the individual share exceeds a given percentage of the total annual profits of the undertaking, the partner is excluded from the scope of the regulations concerning hours of work. This percentage is as follows:

Annual profits of the undertaking	Share of one partner (percent- age)	Share of each of two partners (percent- age)	Share of each of three partners (percent- age)	Share of each partner when there are more than two or three
Up to 2,400 pesos	33	30	—	Dividends equal to profits of senior partner
From 2,400- 4,800 pesos . .	30	25	20	do.
„ 4,800- 7,200 „ . .	20	20	18	do.
„ 7,200-12,000 „ . .	18	18	16	do.
More than 12,000 pesos . . .	Individual profits exceeding 3,000 pesos a year.			

CHAPTER III

NORMAL HOURS OF WORK

This chapter refers to the limitation of normal hours of employment found in the regulations examined. The latter are dealt with under three main headings, namely, the definition of hours of work, the limits of normal hours and the provisions relating to the making up of lost time.

The expressions used to define hours of employment are first examined in terms both of the nature of the service rendered and of the elements which constitute normal working hours.

The provisions limiting normal hours are then examined, first as regards the methods used and then as regards the limits set, a distinction being made between work carried out in single shifts and work carried out in shifts for processes which are not necessarily continuous and those which are.

It must be borne in mind that legislation applicable exclusively to women has been taken into account only in countries where it constitutes the sole limitation of hours and that no mention is made of any of the provisions of legislation applicable to children or young persons.

Further, the influence of the various forms of indirect limitations of working time, such as restrictions on employment during the night, provisions for minimum rest periods, shop closing regulations and regulations concerning Sunday rest and weekly rest, is indicated but not examined in detail.

A. — DEFINITION OF NORMAL HOURS OF WORK

In describing limitations placed on hours of work it is necessary to know the precise meaning of the terms used to this end in national regulations. Examination of these regulations indicates

that although a variety of expressions are used, they may be grouped together under a small number of concepts. For this purpose it may be useful to distinguish between two major factors which enter into the limitation of hours of employment, namely the work factor and the time factor. The terms *actual work*, *time on duty* or *hours of attendance*, and *intermittent work* are generally used to define the nature of the work, or to describe what activities are considered subject to the limitations on hours fixed by the regulations. The exact use of these terms in national regulations will therefore be described below under the title of the work factor. By the time factor is meant the hours which are set by national regulations for the various kinds of work thus described. The expressions *normal*, *regular* or *statutory* hours, *maximum* hours, *aggregate* hours, *amplitude* (total length of working day) and *short* time or *guaranteed* time, found in national regulations, serve to define or qualify the period of time which is limited by the hours provisions of the regulations. In addition, a number of complementary or subsidiary factors, such as rest periods, time spent on going to and from the place of work, and other related items may be taken into consideration when determining what period of time constitutes the normal hours of work and what elements compose this period.

§ 1.— The Work Factor

1. HOURS OF ACTUAL WORK

In order to apply limitations on hours of work it is necessary to define the nature of the work to be limited. A certain number of national regulations use the terms *working hours* or *hours of work* as a basis for limitation, others qualify the phrase by adding the word *actual*. It may be of interest therefore to cite some examples of definitions found in national regulations.

In a number of countries, such as *Bulgaria*, *Ireland*, *Japan*, *Latvia*, *Lithuania*, *New Zealand* and *Poland*, the work factor is clearly defined. The *Bulgarian* definition states that hours of work "shall mean the time during which lawfully engaged wage-earning and salaried employees are bound to be present in the establishments in which they are employed at the orders of the head of the establishment for the purpose of performing the work for which they have been engaged".

In the *Irish* legislation it is stated that " every worker employed on industrial work who is present on the premises of his employer while industrial work is being done on such premises shall, unless he is so present on such premises in contravention of the orders of such employer, be deemed for the purposes of this Section to be present on such premises for the purposes of doing the industrial work on which he is so employed ".

According to an interpretation given by the Director of the Bureau of Social Affairs concerning the *Japanese* legislation, it is made clear that the hours of work covered begin at the time when any operation directly related to the preparation of work under the orders of a supervisor is begun.

The *Latvian* legislation defines hours of work as the time during which the employees must be present at the workplace to carry out the orders of the management or foremen, in accordance with an agreement or the working rules of the undertaking or establishment.

According to the *Lithuanian* Act, hours of work mean the time during which the workers are exclusively at the disposal of the employer and which they are not permitted to use for their own purposes.

In the *New Zealand* law the following provision appears: " In order to prevent any evasion or avoidance of the foregoing limits of working hours all work done by any person employed in a factory or for the occupier elsewhere than in the factory (whether the work is or is not connected with the business of the factory) shall be deemed to be done whilst employed in the factory and the time shall be counted accordingly."

In the *Polish* legislation it is provided that: " The total number of hours during which the employee is bound, in virtue of his contract, to remain in the undertaking or at the orders of the person in charge, though off the premises, shall be deemed to be hours of work."

When the term " actual " is used in national regulations, it is usually given an explicit definition, but sometimes its meaning must be implied from customary practice or by interpretation of competent national authorities. For example, the *Belgian* Act merely uses the phrase " hours of actual work " without giving any explanation of its exact meaning. The *Belgian* Government, however, has made it clear that the definition of actual work, while excluding rest periods, is not restricted to time effectively working.

The term "actual" used in this sense appears in the legislation of *Argentina, Brazil, Chile, Cuba, Czechoslovakia, France, Greece, Italy, Mexico, Rumania, Uruguay* and *Venezuela*.

An example of an explicit definition of the term "actual" is found in the *Argentine* regulations, which state: "For the purpose of calculating the statutory working day 'hours of actual work' shall be deemed to mean all the time the free use of which a wage earner or salaried employee voluntarily relinquishes in order to place himself at the disposal of an employer or a hierarchical superior; hours of work shall not include breaks for rest or considerable interruptions of work."

In some cases, in the definition of the term "actual work" indications are given of the hours of work to be laid down for special régimes or exceptional categories of work. By indicating that only work which is defined as actual work shall be subject to the normal hours fixed in the regulations, it is possible to provide longer hours for those employees whose work is not considered to be "actual work". For example, in the *Cuban* and *Uruguayan* legislation provision is made that for workers and salaried employees occupied in positions of management and not under the constant and immediate supervision of the chief of the enterprise or employer, actual work shall be considered as the period during which there takes place the normal activity of the staff placed under their orders, on the condition that the managing or direction takes place at the same time.

It should be noted however that, in contrast to its use in most national regulations, the term "actual" for purposes of international comparison is generally reserved for the statistical concept of payroll hours, including both regular or normal hours and overtime hours. In this sense it is primarily a time rather than a work factor. This is also the sense of the term as used in some national regulations, especially those of Anglo-Saxon origin, which are based on the concept of wage payment rather than of hours limitation.

2. HOURS OF DUTY

The terms *hours of duty, hours of presence, hours of service, hours of attendance*, all appear in different national regulations to cover the same period of time, namely, the hours of work permitted either for individual employees whose work consists partly or chiefly in watching or is of an intermittent character or for esta-

establishments or branches of industry or commerce whose work is either intermittent in nature or does not involve constant effort. Usually special provisions appear in the regulations authorising longer hours for individuals so occupied, such as night watchmen, janitors, door keepers, gate keepers, etc.

In certain regulations provision is made for longer hours for whole establishments whose work is largely intermittent, as these hours are not primarily exceptions but constitute a modified system of regular hours of work. While a distinction must be made between hours of duty of certain individual employees engaged in an intermittent occupation in an industry or establishment whose regular hours of work are of shorter duration and the hours of duty of whole establishments or branches of establishments which are engaged on intermittent work, the two forms of hours of duty constitute closely related problems and are sometimes dealt with in the same provisions in the regulations.

In general in industry the term "intermittent work" is applied to the work carried on by individuals in intermittent occupations, while in commerce the hours worked by all or the larger part of the employees in whole establishments, such as shops and hair-dressers' establishments, hotels, hospitals, etc., are often regulated on the basis of hours of duty.

A clear example of a provision covering both categories of workers and branches of industry or commerce is found in the *German Hours of Work Order*, which states that: "In the case of branches of industry or categories of employees whose work regularly and to a considerable extent includes periods of mere presence on duty" arrangements contrary to subsection 1 of section 3 and to section 4 (provisions concerning normal hours of work and making up of lost time) may be made by collective rules or by the Federal Minister of Labour or the Labour Trustee in default of such rules or where the rules do not contain provisions respecting employment of this kind.

A similar provision occurs in the *Norwegian* legislation which states that: "If on account of the nature of the establishment or work, the work of certain employees or classes of employees is interrupted by periods when there is little or no work to be done but it is impossible for the employees in question to leave the workplace, the normal hours of work of the employees in question may be extended to not more than 10 hours in the day."

Other regulations such as those of *Argentina*, *France*, *Poland*,

Switzerland, Turkey and Venezuela, containing provisions for hours of attendance or duty longer than the normal hours of work, apply them only to certain employees whose work does not require sustained attention. For example, 46 hours of attendance correspond to 40 hours of actual work for the sales staff of retail food shops in *France*. Similarly, longer hours of attendance are provided for watchmen, inspectors in ports, doorkeepers, private fire brigades, etc., in *Poland*, provided that the work of watching is not coupled with any other kind of work. Watchmen and janitors in *France* and *Switzerland* are also subject to hours of attendance. Provision is made in the *Venezuelan* legislation that the ordinary provisions for hours of work shall not apply to persons who are employed on work which is intermittent or requires mere presence on duty. Longer hours are fixed for such workers and it is stipulated that a break of not less than one hour must occur during the day.

Regulations governing hours of attendance or duty in certain establishments are found for example in *Austria*, in some of the *Swiss* regulations, and in certain *French* Decrees. The *Austrian* regulations governing hours of work in hotels and restaurants and in butcher shops define working time as hours of attendance at the establishment and consequently provide that the normal hours should be prolonged in such cases. Similarly, many of the *French* Decrees, as, for instance, the Decree concerning hospitals and related establishments, the Decrees concerning hotels and the Decrees concerning shops provide that, in order to take into consideration the intermittent character of the work, longer hours of attendance shall be considered equivalent to the 40 hours of work permitted in the Labour Code.

A somewhat similar provision is that found in the *Italian* regulations which states that persons employed on intermittent work or mere being in attendance or watching shall be excluded from the normal maximum hours of actual work. It is stated in the definition of actual work that "it shall not be deemed to cover any occupation which requires only discontinuous work or mere being in attendance or watching". Special régimes are then to be determined by the competent authority for the person or occupations thus exempted, and may be applied to whole undertakings.

Special provisions are occasionally made for hours of attendance or duty for certain enterprises such as public utilities, post and telegraph, etc. For example, in *Czechoslovakia* it is provided that hours on duty may be longer than the regular hours of work in

public utility enterprises, on condition that the effective working time is not more than 6 hours—that is, 2 hours less than the normal working hours. In *Belgium* special provisions are made for the hours of duty of persons delivering telegrams. In contrast to the *Belgian* provision, the *Estonian* and *Latvian* regulations fix special hours of duty for all employees in the post, telegraph and telephone services.

For the purposes of this Report, hours of duty in establishments will be dealt with in the section covering normal hours for special categories of undertakings. Intermittent work in general and special exceptions for persons whose occupations are of an intermittent character will be dealt with in the following chapter.

§ 2. — The Time Factor

1. NORMAL OR REGULAR HOURS OF WORK

The terms *hours of work*, *normal hours of work*, *regular hours of work*, *statutory hours of work*, *working time*, *standard working hours*, *ordinary* or *usual working hours* and *hours of employment* are used interchangeably throughout a large number of regulations when it is desired to indicate the hours which shall be worked as a rule, without regard either to special régimes, exceptions or overtime. In addition, special provisions of the regulations may determine other limits of regular or normal hours of work, which may be either higher or lower than the limits fixed for industry or commerce in general, to meet the needs of certain occupations, such as intermittent occupations on the one hand or particularly unhealthy occupations on the other.

Many of the regulations that use the term *working time* or the unqualified phrase *hours of work* give some further indication as to what these terms cover. For example, in the *Argentine* law it is stated that working hours are limited in principle to 8 and 48 and specific definitions follow concerning hours of actual work. Other regulations, such as the *Canadian*, the *New Zealand*, the *British* and the *Tennessee Valley Authority* and other Federal as well as State bodies in the *United States*, merely refer to limitations upon working hours, or alternatively state that hours of work shall not exceed a stated number of hours. Still other regulations, such as the *Hungarian* and the *Portuguese*, indicate that

a fixed number of daily hours of work shall not be exceeded as a general rule. In these cases, however, the interpretation of the general rule is ordinarily made through the application of the provisions.

The term *normal hours of work* is sometimes qualified either by adding a reference to actual work and defining what is meant by hours of actual work, or by relating it to a definition of overtime. For example, in *Chile* the regulations state that hours of work shall consist of normal hours of work and overtime. "Normal hours of work" shall mean hours of actual work not exceeding a fixed amount. "Overtime" is then defined to mean the hours of work in excess of the maximum fixed for normal hours; normal hours vary according to categories of workers or occupations. In *Denmark* the term "normal hours of work" is applied to the hours fixed by the collective agreements in the occupational or professional domain in question and the expression "overtime" covers the work done outside this period.

However, "normal" is sometimes used in a somewhat more restricted sense to indicate the number of hours in a given period which shall be taken as a rule but from which the hours may be extended usually by Decrees, administrative orders, etc., without any overtime payment, to meet the requirements of certain occupations or certain industries, or certain employees or certain contingencies. This extension of the normal hours then becomes a form of modified normal or regular hours. A further limit is then frequently provided for extension of the modified normal or regular hours, usually at overtime pay. An example of this use of the term "normal" is found in the *Chinese Factories Act* which states that the normal daily hours of work for adults shall be 8 hours; provided that if it is necessary to extend these hours owing to varying local conditions and the nature of the work they may be fixed at not more than 10.

"Normal" may also be used to distinguish the hours fixed in a given region or establishment, either by agreement or by practice, from the statutory hours fixed by law. For example, in the *Spanish* national rules applying to banks it is stated: "For the purpose of application of the rules, by the term 'statutory day' is meant that of 8 hours; by the term 'normal day' is meant the hours in each city and for each establishment at the time of the proclamation of these rules, and by 'reduced day' is meant the hours fixed exceptionally for certain days or months of the year." A somewhat analogous distinction is made in the *New South Wales (Australia) Industrial*

Arbitration Act which states that "for the purposes of this section 'standard hours' means the number of ordinary working hours applicable to industry generally, to be worked daily, weekly, fortnightly or otherwise as determined by the Commission" and then indicates that the Commission may declare a greater or smaller number of ordinary working hours than the standard hours for "any industry or in respect of any employees or class of employees in any industry if in the public interest it shall deem it desirable so to do".

Although the terms *regular* and *normal* hours of work are not necessarily used synonymously, as can be seen from analysis of national regulations, it appears possible for the purposes of this Report to group them together.

2. MAXIMUM HOURS

The term *maximum* is frequently used in national regulations to mean the upper limit to which regular hours may be extended to secure flexibility either under special régimes or under a system of averaging or for making up lost time, but beyond which some further extensions of a more or less exceptional nature are permitted as overtime. It is in this sense that the term is found in the regulations of *Belgium, Bulgaria, Chile, Finland, France, Germany, Greece, India, Italy, Latvia* (for certain categories of workers), *Mexico, Spain, Sweden* and *Switzerland*.

In some regulations such as those of *Canada, New Zealand* and the *United States*, the term "maximum" is used to indicate the limit of hours which may not be exceeded except under special conditions and on the payment of overtime rates. In these cases the regular or normal hours fixed in the regulations are rigidly determined and constitute maximum limits rather than merely basic or standard limits. These limits may be daily or weekly or they may fix the number of hours that may be worked over a longer period, sometimes even, as in the case of permissive regulations in the *Netherlands*, setting an annual maximum limit.

In contrast to the above it is possible to use the term "maximum" to mean the highest limit to which hours may be extended, whether at ordinary or overtime rates of pay. This is the case for example in *Chile*.

For the purposes of this Report the term "maximum" will be used in the first sense.

3. AGGREGATE HOURS

The term *aggregate hours* appears only rarely in national regulations and is used to express the total number of hours that an individual may work, whether employed by one or more operators within or without the premises of a factory, workshop or other undertaking.

In *Greece*, for example, provision is made that an employer shall not occupy on any day wage-earning or salaried employees who have been employed on the same day in another establishment or workplace for the statutory hours of work. He may employ workers who have been employed already, but only for the period requisite to make up the maximum working day.

The same concept is provided for, in a somewhat different form, in *Irish* legislation, in which it is provided that "it shall not be lawful for an employer to employ a worker to do any form of industrial work on any day in which such worker has done any form of industrial work for another employer except where the aggregate of the periods for which such worker does industrial work for each of such employers respectively on that day does not exceed the period (exclusive of overtime) for which such worker could lawfully be employed to do industrial work for one employer on that day".

In *Japan* there is a provision limiting the total number of hours that may be worked by an employee, whether in one or more factories.

In the Factories Act of *Great Britain* the concept of aggregate hours is provided for in the limitation of normal hours, as it is provided that "the total hours worked, exclusive of intervals allowed for meals and rest, shall neither exceed 9 in any day nor exceed 48 in any week".

In the *U.S.S.R.* the concept is somewhat differently expressed in that provision is made for the total hours of work that may be worked under the normal régime in the course of a month.

4. SPREAD (TOTAL LENGTH OF WORKING DAY)

In a certain number of countries hours of work are either limited indirectly or a further limit is put upon their spread or distribution by fixing outside limits for the period of the day during which work may be carried on. Indirect limits may be fixed by a deter-

mination of rest periods, or direct limits may be set in the regulations. These limits to the total duration or spread of the working day sometimes appear in general industrial regulations but more often are found in shops and offices acts and in acts applying to certain special categories of activities, such as the post, telegraph and telephone, hotels or restaurants and hospitals. The chief distinction between maximum daily hours and the time over which hours may be distributed is that the latter includes rest periods, meal hours, stoppages or any other breaks that are usually excluded from both regular and maximum hours of employment. Not all legislation contains provisions concerning the spread of hours, but a few typical examples of such provisions are as follows:

In the *British* Factory Act provision is made for a maximum limit of the total period of employment. Period of employment is defined to mean "the period inclusive of the time allowed for meals and rest within which persons may be employed on any day".

In the *Union of South Africa* the Orders providing for shop closing hours frequently make clear that these hours must be worked in a period not exceeding 11 hours, and the beginning and ending of the day's work is determined within this limit.

In the *Belgian* legislation provisions are made for the total spread of work and indications are given that all work must be carried on between 6 a.m. and 8 p.m.

Provisions very similar to those in the *Belgian* legislation appear in the *Bulgarian*, *Irish*, *Rumanian*, *Swiss* as well as other legislation, and in many of the *French* Decrees applying to commercial activities.

In *Switzerland* one of the provisions concerning span of work provides that if in an undertaking working only one shift the breaks are granted in rotation, the working hours of each individual worker shall fall wholly within a period of 12 consecutive hours.

A somewhat different example is that of the *Indian* legislation, which provides specifically that total hours may not exceed 13, although the maximum hours of work permitted are limited to 10.

In the *United States* in the 1937 North Carolina law, in addition to the limitations of normal hours per day and per week, it is indicated that these hours may be spread over a 12-hour period. A further spread of 14 hours is permitted for certain special categories of work such as motion pictures, theatres and restaurants.

Regulations issued by the Pennsylvania Department of Labour and Industry in connection with the 44-hour law provide that the spread of the working day shall not exceed the hours of work permitted by more than two hours.

5. SHORT TIME AND GUARANTEED TIME

The concepts of guaranteed time and short time which are closely related to each other are dealt with only occasionally in national laws; however, they are noted here since they are found frequently in collective agreements and constitute an indirect limitation to hours of work, although they are primarily designed to control wages.

Provisions concerning guaranteed time occur in the *Chilean*, *Netherlands* and *Yugoslav* legislation.

In *Chile* there is a specific provision in the legislation that employees' hours may not be limited to below 4 in the day. In the *Netherlands* the regulations, as well as fixing a maximum figure for hours of work at 10 per day and 55 per week, require a minimum of 8 per day and 45 per week. A somewhat similar provision, appearing in the legislation of *Yugoslavia*, states that hours of work shall amount to not less than 8 and not more than 10 a day, according to the nature and exigencies of the work.

Provisions concerning guaranteed time more often appear in collective agreements. For example in *Poland*, in the building industry, because of its seasonal and intermittent character, specific provisions are made to guarantee or pay for at least 2 hours of employment for men reporting to work. Similar provisions often appear in the collective agreements in countries of Anglo-Saxon origin. Certain collective agreements, especially those made during depressions, go further and indicate the minimum time which frequently becomes the maximum time and therefore affects the limitation of hours of work which may be worked by each employee.

While the concept of short time is more frequently dealt with in collective agreements than in legislation, an interesting provision is found in the Queensland (*Australia*) Industrial Court Act which permits the court to distribute the work available in order to reduce unemployment, and requires that an employer must apply to the court for permission to divide the work among his employees and to employ such employees on part time only. The Act also states: "Such permission shall set forth the minimum ordinary working hours which the employer may work his employees in any week, or may provide for the laying-off of employees for such periods of time as the circumstances may warrant. . . ." A specific example of provisions for short time is found in the *South African* agreements, where it is stated that an employer may "on account of slackness of work or the exigencies of trade, work his

employees short time and pay such employees the hourly rates for each hour or part of an hour worked. . . . Short time means the time actually worked in an establishment when such time is less than the usual working hours in that establishment ”.

It may be seen from the above definition that short time is not a form of regular or maximum hours of work and therefore need not be dealt with in this Report.

§ 3. — Subsidiary Factors

1. BREAKS

In order to know just what is included in the period of time covered by the above definitions of hours of work, it is necessary to know whether or not the breaks, pauses, rest periods, cleaning time and other such component factors are included in or excluded from the calculation of regular hours of work. Provisions in regard to rest periods, breaks and meal hours appear in almost all the national regulations. As a general rule, it may be stated that breaks for meals as well as shorter rest periods specifically provided for either in the regulations or in the schedules of the establishments are excluded from the calculation of working time with the exception in most cases of work carried on in successive shifts, where the regulations frequently provide that the meal may be taken by the worker while at work. It does not seem necessary, therefore, to summarise the exact provisions made in the regulations, but the following indications may be of interest in showing the kinds of exceptions that are occasionally made.

For example, in *Brazil* in the cold-storage industry breaks are included in the hours of work. They are similarly included in the underground cable and wireless telephone and telegraph operations. In the mechanical record services of certain establishments such as banks provision is made according to regulation in *Brazil* that there must be a 10-minute rest period after 90 minutes of continuous work, and this 10 minutes is then included in the hours of work although longer breaks are excluded.

In a number of regulations such as those of *Cuba*, *Estonia*, *Mexico*, *Uruguay*, *Venezuela* and certain establishments in *Poland*, provision is made that if the worker is not free to leave his working place or if a meal is provided by the employer at the working place, the break shall be included in the normal hours of work. However,

in these cases the rest period is usually shorter than when they are excluded. Similarly, a certain number of regulations, such as the *Latvian* and the *Norwegian*, specifically provide that by agreement between the employee and the employer the period of break may be shortened and in this case included in the hours of work.

In the *Japanese* legislation, on the other hand, the period for rest and break is specifically included in the hours of work, but there is no indication that the workers are free to leave the establishment.

In the *Czechoslovak* legislation provision is made that breaks shall be agreed to by collective agreement and must be provided after every 5 hours of continuous operation. These breaks are then included in the hours of work, but they may be eliminated if the process of production leaves sufficient rest periods to the workers.

In the *U.S.S.R.*, while breaks are excluded from hours of work for manual workers, they are included in the hours for some categories of intellectual workers.

In the *Spanish* regulations the breaks due to stopping and starting of machinery are specifically included in the hours of work.

In the *Hungarian* and *Netherlands* regulations, although long rest periods are excluded from hours of work if they are less than 15 minutes they must be included.

In the *United States* the determination as to whether breaks and rest periods are included or excluded from hours of work is usually left to the individual undertakings.

It should be made clear that although some legislation makes a clear distinction between short pauses or breaks and longer rest periods for meal hours, both breaks and meal hours are often lumped together and are excluded from the calculation of hours of work.

2. TRAVEL TIME

Most general regulations make no mention of travel time in their limitation of hours of work. In a few regulations, such as those of *Argentina*, *Belgium*, *Bulgaria*, certain provinces of *Canada*, *Egypt* and the *U.S.S.R.*, it is specifically stated that travel time is excluded from the calculation of hours of work. In other regulations, as for example in *Czechoslovakia*, time spent going to and from the place of work, especially if one part of an undertaking is widely separated from another part, while not excluded from working time, is considered as accessory, and may exceed the ordinary daily hours permitted. In *Finland* provision is made in the

general law limiting hours of work that the time spent going to and from an agreed starting point fixed by the employer to the point at which work is carried on shall be included in the normal working hours. Although ordinary travel time is excluded from the general regulations in *Japan*, time spent carrying tools to the place of work is included in the normal hours of work. The rules governing a few industries provide for the inclusion of travel time in the normal hours of work, either where the nature of the work or the wide area of the working site requires the worker to spend considerable time going to and from his working place. In the building and contracting industry especially, many national regulations indicate that hours of work shall be calculated from an agreed assembling point; for example, the *German* collective rules for the building industry provide that if the assembling point is far from the place of actual work the normal hours of work shall be calculated from the assembling point or some other agreed place. Similar provisions occur in the collective agreements for the building industry in *France*, *Great Britain* and in a number of other countries.

Provisions similar to those in the building industry often make clear that travel time may be included in the ordinary hours of work for road building, maintenance of bridges, railways and similar work.

Special provisions concerning the inclusion of travel time occasionally occur for occupations such as, for example, the post, telegraph and telephone in *Latvia*, or for travelling salesmen when these come under the scope of the regulations, but such cases are infrequent and exceptional.

In the mining industries hours of work may be calculated at the place of work, thus excluding travel time, or from bank to bank, thus including travel time in the normal hours. When hours are calculated at the place of work, as in most States of the *United States*, travel time is excluded, even in the case of mines, but ordinarily shorter working hours are then provided. In two provinces of *Canada*, New Brunswick and Ontario, hours of work in mining are computed, as in the *United States*, on the basis of time spent by the miner at his working place below ground. In most regulations definite indications specify the hours of work and explain the method of calculation, which may be either according to the hours of the individual worker or of the shift.

In the mining legislation of *Norway*, *Poland*, *Sweden*, *Turkey* and in the State of *Arizona* in the *United States*, provisions

indicate that hours are calculated from bank to bank, thus including travel time in both directions. Similarly, in *Canada*, in the province of British Columbia, a Metalliferous Mines Act provides that underground work begins at the time when the worker enters the mine and ends when he returns to the surface¹.

3. CLEANING TIME

Time spent in cleaning machinery or in changing clothes or washing is ordinarily specifically excluded from the normal hours of work in most regulations. However, in the case of particularly dirty or unhealthy industries, such as the chemical industry, exceptions are sometimes made and the cleaning time included in the normal hours. Nevertheless, even in the chemical industry these regulations vary considerably. Similarly, in the printing industry as in the chemical industry, for certain operations time for washing is provided within working hours. Some regulations in the textile industry require that time for cleaning productive machinery must be given during the normal hours, but others permit an extension of normal hours for this work. It may be said, in general, that an examination of the regulations indicates that the majority of general regulations do not make any specific provisions either for excluding or including cleaning time, and they are dealt with by agreement or by the arrangements of the individual establishment. In most regulations it is assumed that the normal hours of work begin when the worker is on the premises prepared to work.

4. PREPARATORY OR COMPLEMENTARY WORK

A certain number of regulations make specific provisions for time spent on preparatory or complementary work which must be carried on outside of the normal operation of the establishment. In some cases the time necessary to carry on this accessory work is added to the normal hours of work and considered as a modified form of normal hours, or as a special régime, but in certain regulations it is dealt with as a form of overtime. For the purposes of this Report it will therefore be considered under the extensions of the normal hours of work and will be dealt with in the following chapter.

¹ Coal mines are not dealt with in this part of the Report; in so far as the calculation of hours of work in mines other than coal follows the same methods as in coal mines, reference may be made to Part III dealing with coal mines, where detailed explanation is given.

B. — LIMITATION OF HOURS OF WORK

§ 1. — Methods of Limitation of Hours

In order to limit hours of work it is necessary to determine both the method to be employed and the period over which the limit of hours may be calculated. It has been indicated in the previous chapter that the scope of hours regulations may be widespread or restricted and may be based on categories of undertakings or categories of persons. In the following section an analysis will be made of the different methods employed to limit hours and of the limits thus fixed, distinguishing as far as possible between the hours of work provisions applying generally, whether fixed in regulations of wide or limited scope and special hours provisions designed to meet the needs of certain undertakings, persons or categories of economic activity.

Because of the special problems arising in connection with the limitation of hours of work in shops, hotels, hospitals, and theatres, these categories of undertakings are dealt with as separate units, and are therefore not included in the general analysis of hours of work provisions found in national regulations. Similarly special provisions relating to shifts, both for continuous and non-continuous processes, are dealt with apart from the general analysis. Further, as has already been indicated in the introduction to this Report, the present study does not take into account regulations which fix hours shorter than the normal hours of work provisions but are designed primarily to meet safety and health needs ¹.

Hours of work may be limited directly by provisions setting limitations on the number of hours that may be worked in the day, week or other period or indirectly by the regulation of daily and weekly rest periods, breaks, etc.

¹ Provisions reducing hours of work below normal limits for certain occupations in the country concerned occur for example in regard to work in wet places in mines, for certain work in the chemical industry, certain processes in pottery, in printing, in the glass industry, and for work in caissons or under pressure in the building industry, as well as for certain other occupations or processes exposing workers to risk of diseases. Indications are given in the preceding chapter of the scope of the regulations limiting hours of work in unhealthy occupations.

1. DAILY LIMITATION

Limitation of hours of work by the day is the basis on which most national regulations have been framed. As has already been indicated, under the section defining normal hours of work, the daily limit set in a large number of regulations is a limit of working hours exclusive of breaks, meal times and pauses. Many regulations, in addition to setting a daily limit to working hours, provide for the distribution of these hours within the day, indicating for example the maximum period of continuous work permitted, or in some cases, as in *Germany*, requiring shorter hours in case of a broken or divided day. In the examination of national regulations examples of this kind of provision will be indicated, but exhaustive description will only cover the normal daily hours, irrespective of their distribution within the day. The problem of the uninterrupted spell of work has not been taken into account, owing to the fact that it does not directly affect hours limitation, and in view of the diversity of the regulations covered in the Report.

Daily limits only are placed on hours of work in a number of national regulations of both general and limited scope. In addition, the majority of national regulations also fix a weekly limitation.

A daily limit only is found in the general regulations of *Austria*, *Egypt*, *Japan*, *Portugal*, *Spain*, the *U.S.S.R.* and certain States of the *United States*. The *German Hours of Work Order* is based on the principle of a daily limit only, but collective rules may provide a further weekly or fortnightly limit. A daily limit is set for hours of work in certain categories of undertakings or economic activities in *Canada*, *Chile*, *Denmark*, *Greece*, *Iran*, *Spain*, *Sweden*, and the *United States*.

As a rule, when daily limits only are set, an indirect weekly limit is added, either by weekly rest day legislation, or in the absence of legislation by the customary observance of a weekly rest day. Exceptions to the usual provision of one day's compulsory rest in seven are found in *Japan* and the *U.S.S.R.* In *Japan* two days' rest per month are provided, while in the *U.S.S.R.* the rest day may occur on the fifth or sixth day, depending upon the class of work performed. In cases of weekly rest provisions, weekly hours are ordinarily distributed over six days, the hours of work of each day being rigidly limited. However, in this connection, the trend toward the establishment of a five-day week, either by collective agreement or by practice, should be taken into account. While a shorter day on one day a week is

always possible in addition to the weekly rest day, it is provided for specifically in the legislation of the *U.S.S.R.* where six instead of seven hours are worked on the day before a rest day and similar provisions appear in a number of collective agreements in other countries.

2. WEEKLY LIMITATION

Most national regulations both of general and limited scope provide directly or indirectly for limitation of hours of work by the week. In a few instances a weekly limit only is applied without any additional daily limitation. The weekly limits found in national regulations will be analysed below.

3. DISTRIBUTION OF HOURS WITHIN THE WEEK

Most regulations which limit weekly hours also indicate the way in which these hours may be distributed over the days of the week, by fixing a limit to the working day. In some cases this daily limit is determined on the basis of weekly hours evenly distributed over the different working days but more frequently a more elastic system is preferred, by which it is possible to grant the workers a free half-day, usually on Saturday, and to increase the number of hours worked on the other days of the week to a corresponding extent. Regulations limiting weekly hours may provide for the possibility of the hours being distributed over five days of the week, thus giving two free days, if possible consecutively.

Under the 48-hour week, the grant of a weekly half-holiday means a departure from the principle of an eight-hour day, which, as has already been seen, constitutes the basis of many regulations. In many cases such a method of distribution of the weekly working hours is therefore only permitted if certain conditions are fulfilled, such as an agreement between the employers' and workers' organisations or their representatives or as the result of a specific authorisation from the national competent authority.

The procedure by which such extensions are permitted varies considerably from country to country. In some cases the possibility of working longer hours to make up for a customary short day or to permit of a five-day week is included in the legislation without any specific conditions having to be fulfilled, always provided the weekly limit is not thereby exceeded. This is, for instance, the case in *Brazil, Estonia, Finland* (for commercial establishments), *Great Britain, Hungary* (under the special regulations), *Italy, Norway, Sweden, Switzerland, Turkey, Poland, the Union of South*

Africa and in a few States, such as Pennsylvania, in the *United States*. The Pennsylvania law provides a fixed daily limit but regulations permit an extension where a five-day week is worked.

In other cases the existence of the practice as a local custom is deemed to be sufficient justification for introducing this method. This arises, for instance, in the *Canadian* Provinces of Alberta and British Columbia, in *Rumania* and *Venezuela*. As an alternative to local custom, an agreement between employers' and workers' organisations is regarded as a sufficient condition for the change.

More often, however, such an agreement between employers' and workers' organisations or representatives is definitely required, as in *Argentina*, *Australia* (Queensland), *Austria*, *Belgium*, *Chile*, *Cuba*, *Czechoslovakia*, *Luxemburg*, *Mexico* and *Uruguay* (except in certain cases).

Whether an agreement is or is not required, the competent authority must authorise such distribution of hours in each case in *Belgium*, *Finland*, the *Netherlands* and *Uruguay*.

It should be mentioned that the granting of a weekly half-holiday is not only permitted but is in some countries compulsory, at least in respect of a large proportion of the workers. This is the case, in particular, in *Argentina*, in the *Australian* State of Queensland, in *Chile*, in *Great Britain* (as regards women under the Factory Act), in *Ireland*, in *Italy*, in the *Netherlands*, in a few States of the *United States* and in *Uruguay* (as regards commercial establishments). Exceptions are of course usually made for work which is customarily carried out in shifts, work which cannot be interrupted at will and work involving direct service to the public. These provisions will, however, be dealt with separately.

In addition to the provisions permitting hours on certain days of the week to be exceeded under the procedures just discussed, mention should be made that certain regulations permit hours to be exceeded on certain days in order to make up time lost through accidents, public holidays, or other causes. Such cases, which may also result in the extension of the working day, although maintaining the weekly limit, are analysed at the end of this chapter.

4. LIMITATION OF HOURS OVER PERIODS EXCEEDING ONE WEEK

Another method employed by some regulations provides still greater flexibility through placing a limitation on the average hours of work calculated over a period exceeding one week.

Some national regulations set a weekly limit which may be determined by averaging over several weeks; other regulations set a daily limit which may be calculated as an average over one or more weeks, months or other period; still other regulations set the total number of hours that may be worked in a fixed number of days, months, or a year, without indicating how these hours should be distributed in the given period.

Mention should be made of the relationship of the use of the system of limiting average hours with the procedure for securing elasticity in hours limitation through provisions for making up lost time. The latter problem is analysed in the final section of this chapter. Further, it should be noted that the more flexible calculation of weekly hours over a period exceeding one week may permit the employer to meet a number of situations such as exceptional pressure of work, repairs, etc., which under a system of strict weekly limitation would require recourse to the overtime provisions analysed in the following chapter.

Examination of national regulations indicates that the system of averaging rather than fixed weekly hours is used primarily to meet certain specific needs or is applied to certain categories of work. However, national regulations do not necessarily define exactly what cases may give rise to averaging. For example, certain Acts, such as the Hours of Work Acts in *Belgium*, *Canada* (Provinces of Alberta and British Columbia), *Colombia*, *Luxemburg* and *Rumania* permit recourse to averaging in cases in which it is recognised that the normal weekly limits on hours of work cannot be applied. In *Belgium*, the regulations indicate the industries thus covered.

Some regulations, as in *France*, provide that recourse may be had to averaging under certain conditions in order to limit hours for particular industries. No definite indication is given as to the reasons why this method of limitation should be applied in such industries, but specific limitations and conditions are placed on the use of the procedure. In *Norway* averaging is permitted if the nature of the establishment or the work necessitates an irregular distribution of hours.

Other regulations provide for the use of averaging in order to permit an uneven distribution of hours over two weeks, thus giving greater freedom in the determination of a free half-holiday or whole holiday, or weekly rest day. For example in *Argentina* the sale of soft drinks may be permitted on a Saturday afternoon if the establishment is closed on the following Wednesday afternoon.

In *Australia* in the metal trades award the possibility is provided of working alternate weeks of 48 and 40 hours. In *Finland* legislation applying to industry provides that hours may be calculated over two weeks, even when the 8-hour day is being observed. This provision may be used to enable the Sunday rest to be compensated by some other day on certain occasions, so that seven days (56 hours) may be worked in one week and five days (40 hours) in the next. In *Great Britain* some of the Trade Board decisions provide for the possibility of a Saturday being worked every alternate week, and certain printing agreements have introduced (an 11-day fortnight on this basis. In the *Netherlands* urgent work performed in certain offices on a Saturday afternoon, thus causing the limit of hours for that week to be exceeded, may be deemed to have been worked in the following week.

Averaging is also used in some cases to provide sufficient elasticity in the limitations to take into account emergencies arising as a result of climatic conditions or natural phenomena. For example, averaging is permitted in the case of flour mills or sawmills operated by wind or water in *Austria*, *Belgium*, *Czechoslovakia* and *Rumania*. Similarly, the *Czechoslovak* regulations on public works permit averaging only if the execution of the work is influenced by natural phenomena or meteorological conditions. Certain regulations concerning the building industry, as for example in *Germany*, *Great Britain*, *Luxemburg*, *Switzerland* (Ticino and Basle Town) either permit the calculation of hours as an average or provide for different hours according to the time of the year. Similar provisions apply to a number of industries in *Belgium* and in *Italy*. Somewhat analogous provisions are found permitting averaging in case of industries such as fruit and vegetable preserving whose periods of great activity are dependent upon agricultural conditions, as in *Rumania*.

The system of averaging is also used in some cases to meet the special needs arising from occupations dependent upon seasonal influence. A distinction should be made, however, between regulations providing for an average day or week calculated over a given period and regulations providing different fixed daily or weekly hours at different seasons of the year. In *Belgium* a method combining these two forms is used for certain seasonal occupations in which the legal 8-hour day is applied by permitting a 9-hour day during a fixed number of months during the busy season, and requiring a 7-hour day during an equal number of months during the slack season. In *Norway* averaging over a year is permitted

in cases in which exceptional pressure of work arises at regularly recurring times of the year, on account of the seasons of the year, the climatic or other conditions. Further, the same seasonal requirements which may in some cases be met by averaging, are in other cases solved by grants of overtime or by extensions of the normal hours of work during specified periods of each year. In view of the special nature of the seasonal demand it seems useful to consider together all the regulations concerning seasonal industries. Although averaging provisions for seasonal reasons are summarised in this chapter, further consideration will be given to them in the next chapter along with the overtime provisions designed to meet seasonal problems.

Technical problems, due to the nature of certain industries, sometimes make difficult a rigid application of daily or weekly hours of work. A certain number of processes cannot be interrupted before completion even if the duration exceeds the daily hours of work. In some cases these technical needs are dealt with by the use of shift systems¹. In other cases technical difficulties may be resolved through the use of extended individual days. However, as each process may not be carried through every day or even in every week it is possible in these cases to conform to average weekly limits. Examples of this use of the averaging system are found in the decrees for the chemical industry in *France*, which only permit averaging when the duration of certain processes renders it necessary; in *Austria*, in the provisions for commercial distilleries and malt works and certain operations in brewing, and regulations in *Great Britain*, *Hungary* and *Italy*, covering bleaching and dyeing of textiles.

The use of the system of averaging may sometimes permit the employer to meet a number of situations such as repair work, *force majeure* and other special difficulties which, under a system of strict weekly limits, would require recourse to the overtime provisions analysed in the following chapter. For example in the *Netherlands* it is specifically stated that repair work and other work which must usually be done at odd hours to buildings, roads, boilers, bridges, post-offices, telephone, telegraph and wireless installations, ships, motor-cycles or aeroplanes, are among the activities for which averaging is specifically authorised. It is clear that in those countries which provide for averaging, without giving specific

¹ For the use of averaging in continuous processes or non-continuous processes using shifts, see the next section of this chapter.

indication of motive, the same problems may be dealt with by the use of the more flexible system of limitation.

It should be noted that national regulations providing for the use of averaging frequently specify fixed conditions determining the limits to which the daily and sometimes weekly hours may be extended, the number of weeks over which the average figure may be calculated and the procedure to be followed when recourse is had to averaging provisions. The restrictions concerning the use of averaging provisions will be dealt with below, but it may be well to indicate here the procedure laid down in national regulations in order to permit the use of averaging.

An act of the competent authority is required in *Czechoslovakia*, *France*, *Italy*, *Luxemburg*, *Netherlands*, *Norway* and *Turkey*. In *Czechoslovakia* averaging is the result of a special permission granted by the Minister of Social Welfare after an agreement with those concerned. In *France* it is only allowed as the result of a Ministerial Order issued at the request of the employers' or workers' organisation in the occupation, locality or region concerned, after consultation with all the organisations concerned, including the national organisations, and after reference to the agreements concluded among them when such exist. In *Italy* the Minister of Corporations must determine by Decree the activities concerned and the conditions to which they are subject. In *Luxemburg* the law provides that agreements concluded between workers' and employers' organisations may be given the force of regulations. In the *Netherlands*, in the case of certain repairs to be done at night in transport undertakings and for work in cheese factories, metal foundries, and brick yards, an authorisation of the Minister is required, subject to such conditions as he may impose. In cases in which limitation of hours over the year is allowed, either it may be authorised by the Minister or as a result of a collective agreement. In *Norway* the consent of the department has to be obtained; and in *Turkey* the legislation provides that averaging may be authorised by special orders.

An agreement between employers' and workers' organisations concerned is required by the legislation of *Argentina*, *Canada* (Alberta and British Columbia), *Colombia*, *Czechoslovakia*, *Luxemburg*, *Mexico*, the *Netherlands* (in the cases mentioned above) and *Rumania*. In *France* any existing agreements have to be taken into account by the competent authority issuing its orders, and in *Norway* the law provides that the employees concerned or their organisations must be given an opportunity of expressing their opinion. In

Australia, as regards the metal trades, in *Great Britain* under Trade Board decisions or agreements, and in *Irish* agreements, averaging is itself the result of an agreement or decision of the Industrial Commission or Trade Board.

In certain countries the possibility of averaging when authorised by special regulations is automatic and no conditions have to be fulfilled in each special case. This is so in *Argentina* as regards the sale of soft drinks; *Austria* and *Belgium* in all cases where averaging is permitted; in *Finland* in general; in *Germany* when authorised by collective rules; in *Hungary* under the special Decree for the woodworking and upholstery and textile industries, subject to notice being sent to the competent authority of the first recourse to averaging; in *Latvia* for post office, telephone and telegraph employees; in the *Netherlands* as regards repair work and other urgent work which must necessarily be done at odd times; in *Sweden* for customs officials; in *Switzerland* for all Federal officials; and in the *United States of America* for postal railway clerks as well as certain public works undertakings under the Federal Emergency Relief Appropriation Act.

5. OTHER RESTRICTIONS ON HOURS OF WORK

In addition to regulations limiting hours of work directly, mention may be made of those stipulating the periods in which work may or may not be carried on, thus indirectly influencing the possible length of the working day and week.

The restrictions of the above type which affect the working day may take various forms. They may prohibit or restrict employment between certain hours, or require work to be performed between specified hours only. An alternative method determines the span of hours within which the authorised working hours may be placed, or determines the length of the minimum rest period. Other regulations determine the hours of business, thus indirectly affecting working hours. Finally, regulations often require certain rest periods to be given during the working day.

In view of the fact that these regulations usually only affect the distribution of working hours within the day, and not the actual number of hours which may be worked, they will not be analysed in detail in this Report. A few examples will, however, be given here.

The prohibition of the employment of persons between stated hours is frequent in the case of the employment of women

during the night. In some cases, similar restrictions are also applicable to men. For instance, in *Belgium* work must be performed between 6 a.m. and 6 p.m. In the *Netherlands* no worker may be employed in a factory or workshop between 6 p.m. and 6 a.m. In *Switzerland* the normal working day must fall between 5 a.m. and 8 p.m. in summer and 6 a.m. and 8 p.m. in winter. In all these cases a special authority is required to enable work to be carried on outside the stated limits. It should also be added that many collective agreements or awards fix the usual times at which work shall start and finish each day and the hours at which it shall be interrupted for the lunch interval. These provisions may be of importance in connection with the definition of normal hours, in that the agreements may provide that work performed before or after the stated hours may give rise to remuneration at overtime rates, even if the number of hours usually authorised to be worked in a day or week have not been worked.

In other cases the spread or span of the working day is determined in regulations that stipulate, for instance, that 8 hours of work must be performed within a 12-hour limit. This type of regulation, however, affects more frequently persons working in shops, hotels and hospitals, and transport workers, than it does persons employed in other industrial or commercial undertakings. In some countries, nevertheless, regulations of this type are general. For instance, in *Great Britain* the Factories Act lays down that in the case of women the period of employment shall not exceed 11 hours in any day, and the period of employment is defined to mean the period (inclusive of the time allowed for meals and rest) within which persons may be employed in any day. In *India* the 10 or 11 hours of work in each day must be performed within a spread of 13 hours. In *Switzerland* a special clause provides that if in an undertaking the breaks are granted in rotation, the hours of each individual worker fall wholly within a period of 12 consecutive hours. In the *United States* (North Carolina) the work must also be performed within a 12-hour span; in Pennsylvania work must be performed within a spread not greater than two hours more than the normal working hours. The daily span of hours is a more frequent subject for regulation by means of collective agreements.

As regards the minimum rest period, it is usually required only in the case of women, for whom a minimum rest period of 11 hours

is generally provided. In *Iraq* this rest period applies also to men, the law providing that all workers in industrial undertakings must enjoy a period of rest of at least 11 consecutive hours, as well as at least one hour in the middle of the day, which may be further extended in the summer. This constitutes the only limitation of hours of work in *Iraq* pending the use by the Council of Ministers of the power vested in it by law to fix hours of work in industrial undertakings. Minimum rest periods are more frequently to be found in regulations specifying the period of attendance or duty rather than hours of work and are infrequent in regulations applicable to industrial and commercial undertakings in general.

In some cases the hours at which certain undertakings may be open for business are regulated. This is particularly the case in shops, and the question is therefore discussed in the section of this chapter which refers to the special régime applicable to persons employed in shops. Such cases do, however, also arise in banks and wholesale establishments. The hours of business cannot be taken as co-terminous with the hours of work of persons employed therein. If shift systems are worked, or if arrangements are made for different workers to start and finish work at different hours, the period of business may be much longer than the hours of work of the persons who are thus employed. On the other hand, it may be legally permissible for workers to be called upon to work before and after the establishment is open for business.

Regulations in a large number of countries also refer directly to the distribution of hours of work during the day. Thus a break is usually required in the middle of the day, and its minimum duration may be determined by law or agreement. For example, a break of at least half an hour is required in the *British Factories Act* and in *Estonia*, and of at least one hour in *Chile*, *Egypt* and the *Union of South Africa*. In certain cases it is stipulated that workers may not be employed for five hours consecutively without a rest period. In exceptional cases a maximum limit for such breaks is also fixed in the legislation, as, for instance, in *Estonia*, where it must not exceed $1\frac{1}{2}$ hours, or in *Greece*, where the midday rest must be of at least one hour, and at most two hours in winter and three hours in summer. The result of such provisions is to limit the spread of the working day. Such provisions are, of course, frequent in the collective agreements with individual undertakings, which often specify the actual time-table for the workers.

Such measures as have been pointed out above do not as a rule actually limit the number of hours which may be worked, because, other regulations usually apply. The requirement for a minimum rest period may, however, in a few countries constitute the only limitation of the hours of work in special categories of establishments or persons, such as shop assistants, nurses in hospitals, and hotel employees.

Other regulations affect the working week by requiring a weekly rest day. Some such regulations are based on the principle that no work should be performed on Sunday, and only admit of another day being substituted for Sunday when absolutely necessary, or in order to enable certain religious communities to observe their customary rest day. Other regulations simply require one day's rest in seven, whilst expressing a preference for a simultaneous rest of all workers, if possible on Sundays. It will be recalled that in *Japan* and the *U.S.S.R.* the provisions regarding rest days are not on the basis of the week.

In countries in which the limitation of working hours is effected by means of a daily limitation only, the number of hours which may be worked in the week can only be calculated by taking into account the number of days on which work may be performed. Regulations concerning weekly rest are very widespread indeed, and even in the absence of such regulations the weekly rest is often established by custom.

In certain countries also the provisions on the weekly rest day require a rest period exceeding 24 hours. For instance, in *Czechoslovakia* this period is extended to 32 hours, and in *Latvia* to 42 hours.

There are a certain number of countries which require by law that a half-holiday be granted in addition to the weekly rest day. This question has already been referred to above in connection with distribution of hours within the week. Similarly, in *France* and *New Zealand*, where a 40-hour week has been introduced, preference is shown for the distribution, whenever possible, of the 40 hours over 5 days in the week in such a way as to grant two consecutive days' rest each week.

There is also a marked tendency for collective agreements to provide for the distribution of hours of work over 5 days in the week in a number of countries. This practice is spreading in *Great Britain* and covers a considerable part of industry in the *United States of America*. In the latter country, the 5-day week though less prevalent than the 8-hour day, is more common in collec-

tive agreements than the 40-hour week and is the rule in basic materials, fabrication except for stoves, pottery, and glassware, in construction, food and agricultural processing except for flour and cereal products, and in the apparel industries. It prevails in printing and publishing, light and power, gas and coke, and for merchant tailors. In aluminium, petrol refining, textiles, furs, men's and women's clothing, and hats, the 5-day week is the only maximum provided in agreements.

It should be borne in mind that the number of hours which may be worked in any year are affected by the law and practice with regard to holidays with pay and the granting of public holidays, matters which are outside the purview of this Report.

§ 2. — Limitation of Hours in a Single Shift

1. DAILY LIMITATION

(a) *Daily Limitation only*

Daily limits only are placed on hours of work in a number of national regulations of both general and limited scope, although the majority of national regulations fix a weekly limitation, usually supplemented by provisions limiting daily hours as well.

(i) *Daily Limitation below 8 Hours*

General legislation

The lowest daily limit in general legislation is found in the *U.S.S.R.*, where the Constitution and the hours of work legislation provide that the majority of workers shall not work more than 7 hours a day normally, while on the day before a rest day or holiday hours shall be reduced to 6. Further, in the *U.S.S.R.* the most common practice affecting about four-fifths of the industrial workers is to provide a day of rest on every sixth instead of seventh day. In certain special cases covering about one-fifth of the industrial workers, such employees work for four days and have a fifth day free. This system is used more generally for shift workers but is occasionally applied to other types of work.

Regulations applying to certain categories of undertakings or persons

Daily limits below 8 hours are found in regulations applying to certain categories of workers in *Chile, Denmark, Greece, Portugal, Sweden, the U.S.S.R. and the United States.*

The 7½-hour day is provided for in *Chile* by a Decree limiting the hours in Government Departments and dependent services in Santiago.

The 7-hour day is applied in the collective agreements in *Denmark* for night work in the printing industry, as well as for carpenters and woodworkers in Jutland during the months of November, December and January.

In *Greece* salaried employees engaged by limited liability companies and in banks and offices in general work a 7-hour day.

In *Portugal* a special Decree applies the 7-hour day to all office workers.

In *Sweden* the 7-hour day is applied by Decree to a limited category of civil servants, namely the employees of the Central Statistical Office.

In addition to the general legislation, special legislation in the *U.S.S.R.* limits still further the hours of work for certain categories of workers. Salaried employees, unless specially provided for, may work hours varying from 6 to 6½ or 8. The 6-hour day is applied to all salaried employees working in institutions which have adopted the ordinary 6-day week, i.e. five days' work followed by a rest day common to all the staff and to workers employed at night. A 6½-hour day including, however, half an hour's pause for a meal, is the limit applied to salaried employees, if the continuous working week is not applied, engaged by the public authorities and by the central offices and trusts, syndicates, State commercial undertakings, and co-operative unions running several shops. The same limits are applied to salaried employees in newspaper and book publishing undertakings other than those which will be mentioned under the 8-hour limitation, employees of press agencies, proof correctors employed by the authorities, and to the technical staff of trade unions other than those employed in factories.

In the *United States*, Federal legislation establishes a 7-hour day for employees of the Federal Government, leaving to departmental executives the specific regulations.

In the case of certain unhealthy or dangerous processes in various countries, hours of work are limited to below 8 per day.

(ii) *Daily Limitation to 8 Hours*

General legislation

Eight hours per day is the most usual figure determined upon for the basic daily limitation of hours, and is found in the general

legislation of *Austria, China, Colombia, Germany, Portugal, Spain,* and the *United States of America* (Montana and Ohio).

The *Austrian* general Act and instructions apply the 8-hour day except where collective agreements fix a 48-hour weekly limitation, or when special provisions govern the daily and weekly hours, as for instance in the transportation and communications services, for certain shops and commercial establishments, and certain branches of industry.

The *Chinese* Factory Act fixes the normal hours of work at 8 per day, but makes further provision that in case of necessity owing to variations in local conditions and the nature of the work these hours may be extended to 10. However, the Factory Act is to be applied progressively and the hours of work provisions have not yet come into effect.

In *Colombia* salaried employees shall not be bound to work more than 8 hours per day.

The *German* Hours of Work Order establishes the 8-hour day as normal unless collective rules or decisions of the competent authority fix a higher limitation which may fall between 8 and 10 hours. While the majority of collective rules in industry have maintained the 8-hour limit as normal, a certain number in commerce have set a higher figure. Of the collective rules examined for the purposes of this Report, those for the chemical industry and for the potash industry provide for a daily limit without fixing a weekly limit. In the chemical industry the hours may be raised to 9 by the manufacturer after consultation with the factory representatives and the regional bodies. In the potash industry the 8-hour day includes half an hour's pause in the case of work underground or for persons whose work is directly related to underground work, but excludes such a pause from the normal hours in the case of surface workers. The normal daily limits as provided in the *German* Hours of Work Order may be exceeded to secure uneven distribution of hours over a week or a fortnight, thus permitting a shorter day or half-holiday during the week; they may also be exceeded to permit the making up of lost time as is indicated below. Further, under certain conditions which will be discussed in the next chapter concerning overtime, the normal daily hours may be extended up to a maximum of 10.

In *Portugal* the 8-hour limit is applied to industry and commerce in general.

In *Spain* the limitation contained in the Decree of 1931 provides for the 8-hour day only. However, if the nature of the work does

not admit of a uniform daily distribution of the hours of work, or if an agreement has been concluded between the employers and workers, hours of work may be calculated by the week. This method of calculation must be authorised by the official joint bodies and is subject to a further limitation of 9 hours per day.

In the *United States*, two States have legislation of broad scope limiting the hours of adult males to 8 a day. In Montana an Act of 1936 provides for an 8-hour day for all industries and occupations not specifically dealt with below; in Ohio this limit applies to all manufacturing or mining establishments. Further, 8 hours are set in California, Connecticut, Illinois, Indiana, Missouri, New York and Wisconsin, as the number of hours that shall constitute a day's work in the absence of contractual engagement. However, these laws have little effect on the limitation of hours of work.

Regulations applicable to certain categories of workers or undertakings.

The 8-hour limitation is also found in the regulations governing certain categories of work in *Australia, Canada, Denmark, Iran, Spain, U.S.S.R.*, and the *United States*.

Australian mining legislation (Queensland and Western Australia) apply the 8-hour limit to work in all mines. In Western Australia it is specifically stated that one winding time is included in the 8 hours.

In the Mining Acts of two Provinces of *Canada* the 8-hour limitation is applied; in New Brunswick the limitation refers to hours of work at the working place, and in Ontario 8 hours are permitted for all work underground.

In *Denmark* the majority of the collective agreements examined provide for the 8-hour day. This is the case particularly in the boot and shoe industry in Copenhagen in the manufacture of cigars in general, for day work in the printing industry in Copenhagen, carpenters and woodworkers in Copenhagen and Jutland, except in the latter case during the months of November, December and January, and in the brewing industry.

In *Iran* a Decree introduces the 8-hour day for all workers engaged in the manufacture of carpets in Kirman and Baluchistan.

Under the *Spanish* Labour Act of 1931 an 8-hour day is fixed for underground and surface workers in mines (other than coal mines), quarries and salt deposits.

In the *U.S.S.R.* the 8-hour day is provided for salaried employees working directly in the workshops of industrial undertakings, for

the employees in the shops and offices of productive undertakings, for salaried employees of co-operative associations running only one shop, for all salaried employees in newspaper publishing and in book publishing for those working in direct relation to the printing or despatch work, and for the technical staff working for professional trade unions within factories. An 8-hour day is further authorised for seasonal work, the carrying out of which depends upon climatic and natural conditions, and which can only be executed during a period of the year not exceeding six months. The 8-hour day is also applied to the militia when engaged mainly on manual work.

In the *United States of America* the Federal law of 1892 and subsequent Acts concerning public works as well as the Housing Act of 1937 include an 8-hour day provision for mechanics and labourers. However, in so far as the activities covered are also governed by the Federal Emergency Appropriation Act, other limitations also apply. Similarly, work underground in the Government mineral lands being worked on leases is limited to 8 hours a day.

A number of State regulations in the *United States* also apply this limit in special fields, notably in regard to employment in mines, smelters and concentrating mills in a number of the mining States, i.e. Arizona, California, Colorado, Idaho, Kansas, Missouri, Montana, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Utah and Wyoming. In Kansas this limitation applies only to lead and zinc mines. The 8-hour day is also provided for certain employees in electric plants in Arizona and for cement and plaster manufacturing in Colorado. Employees on public works are subject to an 8-hour day in Arizona, California, the District of Columbia, Idaho, Indiana, Kansas, Kentucky, Minnesota, Missouri, New Jersey, New Mexico, Oklahoma, Texas, Washington, West Virginia and Wyoming. Further, the 8-hour-day limit applies to employees on public roads, highways and bridges in Arkansas; to the mechanical departments of State institutions in Connecticut; to manual labour on all State work, road work and public institutions in Minnesota; to mechanical, chemical, or smelting industries and plate glass manufacturing in Missouri; to public employees and those employed on public contract in New Mexico; to mechanical manufacturing in Ohio; to State, county and municipal employees in Oklahoma; to State charitable and penal institutions, and to day labourers in manufacturing or mechanical business in Wisconsin.

An 8-hour limit is also found in most collective agreements in

the *United States*, but the majority of agreements ordinarily also provide a weekly limitation.

(iii) *Daily Limitation above 8 Hours*

A limited number of regulations in *China*, *Egypt*, *Japan* and the *United States of America*, both general and special, fix a daily limitation only that is above 8 hours. The *Egyptian* legislation applying to all women and to men in specified unhealthy occupations sets a 9-hour day. In the *United States*, a 9-hour day is provided for telephone exchanges in Montana in places of more than 3,000 population. A 10-hour limitation is fixed in the general hours of work regulations of the States of Oregon, Michigan and Minnesota. Similarly, certain States of the *United States* provide a 10-hour limit in a limited number of industries: Arkansas for the saw and planing mills, Maryland for cotton and woollen mills, tobacco warehouses in Baltimore and certain mines, in New York for hours of work in brickyards and in Rhode Island for manufacturing and mechanical establishments. Laws setting a limit on the day's work in the absence of a contract of employment fix 10 hours in Florida, Maine, Michigan, Minnesota, New Hampshire and Rhode Island.

In *China* the general legislation establishing the principle of the 8-hour day provides for its extension to 10 hours in case of necessity owing to variations in local conditions or the nature of the work. However, the 10-hour like the 8-hour limit has not yet come into effect.

The *Japanese Factory Act* applicable to women in industry sets an 11-hour day. Rest periods are, however, included in the legal hours of work and provision is made that where hours exceed 6 there will be half an hour, and where the day exceeds 10 there must be one hour of rest. Agreements in Japan between employers restrict hours of work for many workers not covered by the Factory Act. An 11-hour day including 1 hour of rest is provided in agreements for most textile operatives in the prefectorial district of Aichi (which includes Nagoya), parts of the district of Osaka (Senhoku and Sennan), the Chichibu area in the prefectorial district of Saitama; for cotton finishing in the Totomi area of the Shizuoka prefectorial district; for cotton carpet raising in Osaka and for the manufacture of hosiery for export in Hyogo and Osaka. Similar agreements also cover the manufacture of Japanese fans in Marugame and Banko porcelain in Yokkaichi.

Other Japanese agreements applying to establishments not

covered by the Factory Act provide for a 12-hour day including 1 hour of rest for rough velvet raising in Saitama and Shizuoka. In the case of the manufacture of Japanese clothing in Osaka, this limit applies during 6 months of the year, is raised to 13 hours excluding any rest period during 3 months, and is reduced to 9 hours during 3 months. In the manufacture of fan blades in Kyoto, the 11-hour limit applies during 6 months and is raised to 12 hours during 6 months.

(b) *Daily Limitation supplementary to Weekly
Limitation*

The following summary gives a rough indication of the daily limits fixed in regulations where the method of limitation is based upon the week. A full examination of these daily limits, grouped according to their relation to the week, will be given below, following the analysis of the weekly limitation.

(i) *Daily Limitation below 8 Hours*

While in the majority of both general and special regulations 8 hours is fixed as the basic figure for daily limitation, in a certain number of countries it is the customary practice for office workers, particularly those employed by Government Administrations and in banks and insurance offices to work less than 8 hours a day. This practice is not often incorporated in the legislation. However, limits varying from 6 to 7½ hours are fixed in regard to civil servants in the Dominion of *Canada*, customs officers in *Greece*, and the staff of banks and pawnbrokers' establishments in *Brazil*. Similarly in *Italy* collective agreements covering banks and insurance offices provide for a 7-hour day. In addition, in *Czechoslovakia* certain categories of workers on construction work undertaken and subsidised by the Government work a 7-hour day. In *France* the Decrees applying a 40-hour week provide among other methods of distributing the weekly hours for a working day of 6 hours and 40 minutes on 6 days of the week. In the *United States of America* there are a considerable number of collective agreements which provide for a daily limitation below 8 per day. A 7-hour day is also established for certain employees under Federal jurisdiction.

(ii) *Daily Limitation to 8 Hours*

A fixed 8-hour day is set as the normal limitation of hours in the general legislation of *Bulgaria*, *Hungary*, *Italy* (covering wage earners in industry only), *Latvia*, *New Zealand* (the Factories and

the Shops and Offices Acts), and the *United States of America* (State of Pennsylvania). In addition general legislation covering industry fixes an 8-hour day in *Austria* and *Lithuania*. In *Austria*, however, collective agreements may substitute a different daily limitation, if a 48-hour week is provided.

Regulations covering certain categories of workers apply a fixed 8-hour day in *Australia* as for example, for newspaper work in some States, in certain mines, and, in Queensland, for both clerks and employees in the building industry; in *Belgium* for the diamond industry and ship repairing; in *Canada* for the majority of employees in the building industry in Alberta and Ontario as well as the millinery industries in Ontario and Quebec : for certain employees in the cloak and suit industry and in printing in Quebec, and for employees coming under the Dominion Fair Wages Act ; in *Cuba* for industrial employees in the cane sugar industry; in *Ireland* in the boot and shoe, tailoring and baking industries; in the *Netherlands* for stonecutters; in the *Union of South Africa* for certain employees in the building industry and in mines. In the *United States of America* the fixed 8-hour day applies to federal employees coming under hours of work regulations, to employees in certain State undertakings and in the majority of collective agreements.

An 8-hour day which may be increased to 9 as long as the weekly limit is maintained is provided in the general legislation of *Argentina*, *Canada* (British Columbia), *Chile* (salaried employees), *Colombia*, *Norway*, *Spain*, *Sweden*, and *Turkey*; in legislation applying to industry only in *Estonia*, *Greece*, *Luxemburg*, *Rumania*, the *Union of South Africa* (employees coming under the Factory Act), *Venezuela*, and *Yugoslavia* (as well as certain commercial undertakings); and in legislation applying to employees in commerce in *Finland* and in commerce and offices in *Venezuela*.

An 8-hour day which may be increased to an unspecified amount so long as the weekly limit is maintained is provided for in *Australia* (Queensland), *Belgium*, *Brazil* (increased to 10 only), *Chile* (wage earners), *Czechoslovakia*, *Cuba*, *Italy* (salaried employees), *Mexico*, *Poland* (Upper Silesia), the *United States* (Pennsylvania, in the case of a 5-day week), and *Uruguay*.

(iii) *Daily Limitation above 8 Hours*

Daily limits varying between 8 and 11 are found in addition to weekly limits in general legislation and in regulations applying to certain categories of undertakings or workers;

In *Australia* employees covered by the Western Australian Factories Act work $8\frac{3}{4}$ hours, which may be extended to 10. Commonwealth awards covering metal trades set limits at $8\frac{3}{4}$ hours and for builders' labourers fix the day at 9 hours.

In *Canada* the Alberta Hours of Work Act sets a daily limit of 9 hours which may be extended to 10. An Act in Ontario fixes a 10-hour limit. The New Brunswick Factory Act, applicable to women and young persons only, fixes a 10-hour day in addition to the weekly limit.

In *Chile* certain employees, subject to a 56-hour weekly limit, are in addition subject to a daily limit of 9 hours and 20 minutes which may be extended to 10.

The Factories Act of *Great Britain* fixes a 9-hour limit which may be extended to 10. Various Trade Board decisions set limits between $8\frac{1}{2}$ and 10 hours.

In *India* the Factories Act limits daily hours to 10, except for seasonal industries, which may work 11 hours.

In *Ireland* general legislation fixes a 9-hour day.

In the *Lithuanian* legislation a 10-hour day is provided for commercial undertakings.

In the *Netherlands* general legislation fixes a daily limit of $8\frac{1}{2}$ hours which may, in a few particular cases be extended up to 11 hours.

In *Switzerland*, in Basle Town, legislation provides in certain cases for an $8\frac{1}{2}$ -hour day which may become $8\frac{3}{4}$; in the building trade a 9-hour day is in effect. In Ticino hours differ for certain categories from $8\frac{3}{4}$ to $9\frac{1}{2}$; in Valais a 10-hour day supplements the weekly limit.

In the *Union of South Africa* newspaper printing workers have an $8\frac{1}{2}$ or 9-hour day, and certain semi-skilled workers in the building trades have a 9-hour day.

In the *United States of America* a 10-hour day is applied either generally or to certain categories of workers by State laws in Georgia, Mississippi and North Carolina; various collective agreements set limits between 8 and 10.

In *Yugoslavia* some commercial and handicraft activities are subject to 9 or 10 hour limits.

2. WEEKLY LIMITATION

The majority of national regulations of both general and limited scope set weekly limitations on hours of work. In the following

section these provisions will be grouped according to the weekly hours fixed without indicating whether these regulations also contain provisions determining how the weekly hours may be distributed within the week.

(a) *Weekly Limitation to below 40 Hours*

General Legislation

No general legislation limits hours of work to less than 40 per week.

Regulations applying to Certain Categories of Undertakings or Persons

Special provisions in the regulations limit weekly hours of work to a figure below 40 for certain categories of work or persons in the following countries: *Australia, Brazil, Canada (Ontario), France, Germany, Greece, New Zealand*, and the *United States of America*. In addition, in *Bulgaria* and *Latvia*, legislation provides for a 36-hour week for work at night in industry and commerce. Further, in *Argentina* a 36-hour week is provided for work performed in an unhealthy place in which air is vitiated or compressed, or where there are permanent toxic emanations or dust endangering the health of the workers employed therein.

In *Australia* a Commonwealth Award for machine compositors and for night work in newspaper printing in Victoria sets a 38-hour week.

In *Brazil* a 36-hour week is established by Decree for banking establishments.

In *France* Decrees set a week of 38 hours 40 minutes for hours of duty underground in potash, metalliferous, asphalt and bituminous schist mines. This includes a daily rest period of 25 minutes; weekly working hours are therefore in fact 36 hours 35 minutes. An alternative arrangement applying only to potash mines permits weekly hours to be 36 hours 15 minutes with no specified daily rest.

In *Germany* special regulations for the textile industry set 36 hours as the limit above which workers in certain textile processes may not be dismissed owing to shortage of materials.

In *Greece* a Decree covering customs officials sets hours of work at 38 per week.

In *New Zealand* aerated water workers in Christchurch work 36 hours per week from 1 May to 31 October. A 37½-hour week is worked by insurance workers, except in Marlborough.

In the *United States of America* work on public works in the States of Illinois and Utah is limited to 30 hours per week. Men employed on dam construction under the Tennessee Valley Authority work a 36-hour week.

A large number of collective agreements also set weekly hours below 40. For example, a 36-hour week is general in the glass industry for all but continuous processes. In fur manufacturing hours are often 35 per week, and in men's clothing 36 hours per week is a common figure. In the women's clothing industry hours are often 35 per week although a few agreements set 37½ hours as the weekly limit. About two-thirds of the newspaper publishing industry works less than 40 hours, more than one-half of which work a 37½-hour week. In the cement industry the 36-hour week is common in about half of the agreements while in hat manufacturing the 35-hour week prevails in approximately one-half the agreements. The working week is 36 hours in two of the largest rubber companies as well as in a few small plants. One large company in the radio branch of electrical equipment works 35 hours and another 36. About 5 per cent. of building construction workers work a 30-hour week, while about an equal number work a 35-hour week.

(b) *Weekly Limitation to 40 Hours*

General Legislation

General legislation in *France, Italy* and *New Zealand* establishes the 40-hour week.

In *France* the legislation covers all industrial, commercial, handicraft and co-operative establishments, both public and private. Application of the Act is, however, done by Decree. At present Decrees set the 40-hour week in all industrial undertakings, including the surface workers of mines, and in all commercial undertakings other than those covered by special régimes. The 40-hour week is specifically set for offices and administrative services, both public and private, for financial, credit and exchange establishments, insurance companies and savings establishments, and for wholesale establishments.

An *Italian* Decree of 1937 applies the 40-hour week to wage-earning workers in industry. Salaried employees in both industrial and commercial undertakings are not covered by the Decree. By an agreement, the 40-hour week is applied to branches of

commercial establishments in which technical and economic conditions permit its application.

The *New Zealand Factories Act* (as amended in 1936) sets a 40-hour week but permits the court to authorise higher limits, not, however, to exceed 44 hours, in cases in which the court deems the 40-hour week inapplicable. The *Industrial Conciliation and Arbitration Amendment Act* of 1936 also enjoins the court to fix a 40-hour week in all orders and awards and requires that parties to agreements shall fix a 40-hour week " unless, in the opinion of the court, it would be impracticable to carry on efficiently any industry to which the award relates if the working hours were so limited ". The 40-hour week has, in fact, been applied, either by order, award or agreement, in almost all cases. Exceptions to this general rule are specifically mentioned in other sections of this chapter.

Regulations applying to Certain Categories of Undertakings or Persons

Regulations limit hours of work to 40 per week for certain categories of undertakings or workers in the following countries: *Australia, Belgium, Canada* (Alberta, Ontario and Quebec), *Czechoslovakia, Spain, the Union of South Africa, and the United States of America.*

While most of these regulations apply to certain branches of industry, some also determine hours for commercial undertakings. Indications are given here of the scope of the more important regulations limiting hours of work to 40 per week.

In *Australia* a 40-hour week is set in a certain number of awards and collective agreements. For example, this limit is fixed by agreement for surface mechanics and day men in the Broken Hill mines. A Commonwealth Award sets the 40-hour week for newspapers in Victoria with 38 hours for machine-compositors and for night work. In Queensland an Award sets the 40-hour week for all but a few employees in the building industry. A Queensland Award likewise sets the 40-hour week for clerks and switchboard attendants with the exception of wharf delivery clerks who work 44 hours in the Northern Division. In Western Australia the 40-hour week is worked in gold-mining operations and it also applies to lead and zinc mining in Tasmania.

In *Belgium* an Act of 1936 provides for the reduction of hours of work to not less than 40 per week in industry or in parts of industry in which the work is unhealthy, dangerous or difficult.

This Act has at present been applied only in the cases of metal mines and the extraction of clay and similar products, for which a 45-hour limitation has been fixed. A 40-hour week is established by Decree for the diamond industry.

In certain *Canadian* provinces, schedules and agreements set a 40-hour week. This is the case in Alberta where schedules fix this limitation for painting, decorating, paper hanging, electrical contracting, lathing, plastering and related trades. In Ontario schedules set the 40-hour week for plumbers, steam fitters, electrical workers and carpenters in various zones and for the millinery industry throughout the province. A voluntary agreement for photo-engravers in Toronto sets a 40-hour week for day work. Agreements made binding under the Workmen's Wages Act of Quebec limit hours to 40 per week for the millinery industry and ladies' cloak and suit trade, and printing. An order of the Quebec Fair Wages Board applying to all persons not covered by the latter Act provides that overtime rates shall be paid to all office workers working more than 40 hours per week.

A circular of the *Czechoslovak* Council of Ministers provides a 40-hour week for certain categories of workers, particularly unskilled workers on public works construction undertaken or subsidised by the Government. An agreement of principle between the Federation of Czechoslovak Industrialists and the Central Trade Union Organisations outlines a 40 or 42-hour week as a general rule. This limitation has been applied by definite agreements setting the 40-hour week in the rayon industry and alcohol distilleries and refineries. The 40-hour week is also in effect in the Bata works and in the lithographic works of the Graphic Union.

Hours of work for post office workers in *Spain* are fixed at 40 per week. Further an Act of 1936 of Catalonia enables the Labour Council to fix a 40-hour week in each branch of industrial and commercial activities.

In the *Union of South Africa* wage determinations set a 40-hour week for night work in the printing and newspaper industry.

Federal legislation in the *United States of America* sets a 40-hour week for postal employees and for the Federal Bureau of Engraving and Printing. The Government Contracts Act fixes a maximum 40-hour week for all persons employed on Government contracts of more than \$10,000. The 40-hour week also applies to clerical and non-manual workers on public works projects, to all workers under the Works Progress Administration, and the Public Works Administration, while Tennessee Valley Authority employees other than

those engaged on dam construction, are subject to weekly hours of work schedules, agreed upon by conferences of the personnel authorities and employees, which usually fix 40 hours. In the State of New York the 40-hour week is worked on public works. In Wisconsin codes set a 40-hour week for construction trades, cleaning and dyeing.

The 40-hour week is provided for in a majority of collective agreements. The 40-hour maximum is almost universal in the iron and steel, stone, timber, rubber, petroleum and aluminium industries and is predominant also in the cement industry and in metal fabrication, with the exception of stove manufacturing. The 40-hour week also applies very generally in the following industries: furniture and upholstery, jewellery, pulp and paper products, pottery, food and agricultural processing (with the exception of flour and cereal products), building construction, the apparel industries (except for the manufacture of fur and men's and women's clothing), book and job printing, light and power, and gas and coke manufacture. In the distributive trades and personal service, the 40-hour week is the rule only for merchant tailoring.

(c) *Weekly Limitation from 40-44 Hours (inclusive)*

General Legislation

General legislation provides for a 44-hour week in *Australia*, the *United States of America* (Pennsylvania), *Uruguay* and *Venezuela*.

Commonwealth Awards in *Australia* frequently fix a 44-hour week. In New South Wales the Industrial Commission fixes hours at 44 per week although the direction that it should do so, previously contained in the Act, was repealed in 1932. In Queensland the Act specifically directs the Arbitration Court, except for transport, domestic and agricultural industries, to fix the maximum work week at 44 hours in all awards. The Western Australia Arbitration Court also tends to set 44 hours as the standard work week.

In *Uruguay* all commercial establishments, with a few exceptions, work a 44-hour week.

In the *United States of America* the general law in the State of Pennsylvania sets a 44-hour week for all industrial and commercial activities.

In *Venezuela* the hours of work in commercial undertakings and offices are limited to 44 per week.

Regulations applying to Certain Categories of Undertakings or Persons

Regulations affecting limited categories of undertakings or workers limit hours to more than 40 up to 44 inclusive per week in the following countries: *Australia, Brazil, Canada, Czechoslovakia, Great Britain, Ireland, Italy, New Zealand, Spain, the Union of South Africa, and the United States of America.*

Indications will be given below as to the scope of the activities covered and the weekly limitation fixed.

As has already been noted, Commonwealth Awards in *Australia* very often set a 44-hour week. This is the case in Awards for the clothing industry, the boot and shoe industries, builders' labourers, the metal trades (with minor exceptions), and the printing industry, except for certain work on newspapers which, since they are limited to a lower figure, have already been dealt with. A Commonwealth Award sets a 42-hour week for machine compositors and machine type setters on night work, other than those employed on newspapers. A Victoria Award for commercial clerks, other than those employed in retail shops, sets a 43-hour week. An Award in Western Australia for clerks, messengers and telephone attendants in wholesale establishments, and for fruit and produce markets, sets a 42-hour week. Further, note should be taken of the statutory limitation contained in the Western Australia Factories and Shops Act setting a 44-hour week for women and persons of Chinese or other Asiatic origin.

In *Brazil* a Decree sets a 44-hour week for pawnbrokers.

The Fair Wages and Hours of Labour Act of *Canada* sets a 44-hour week for all persons employed on Government contracts. Civil servants of the Dominion work 41½ hours per week, except during July and August when the work week is 36½ hours.

A 44-hour week is frequently set by the provincial regulations in *Canada*. In Alberta schedules apply it to plasterers, bricklayers, cement workers, general building and contracting work, tile, marble, and terrazzo contracting. A code in Alberta sets the 44-hour week for commercial printing. An agreement for electrical workers in Winnipeg (Manitoba) likewise sets a 44-hour week. In Nova Scotia schedules set this figure for electrical workers, plumbers, steam fitters, carpenters, bricklayers, and related trades. In Ontario the 44-hour week is set by schedule for sections of the clothing industry, plastering, electrical trade, and the soft furniture industry. By the Government Contracts Act of Ontario employees on public works work 44 hours. A number of voluntary collective

agreements set the 44-hour week, as, for example, that covering automobile workers in Oshawa. An agreement in Quebec applies the 44-hour week to the clothing industry. Schedules in Saskatchewan set this figure for carpenters and electrical workers in certain parts of the province.

In *Czechoslovakia*, as has already been noted, an agreement of principle between the Federation of Czechoslovak Industrialists and the Central Trade Unions establishes the principle of the 40 to 42-hour week. Applying this principle, a 42-hour week has been fixed by agreement for glass bottle works.

Collective agreements in *Great Britain* frequently contain hours provisions setting limitations between 40 and 44 per week. In the printing industry certain categories of work are subject to shorter hours than others. Recently new collective agreements have reduced hours of work for night work by two hours at the same time setting a minimum of $42\frac{1}{2}$ hours per week for such work unless shorter hours formerly prevailed. The upper limit for night work in printing is frequently placed at 45 hours. In day work, as will be indicated in the next section, collective agreements ordinarily provide for 45 hours per week with the exception of the Co-operative Printing Society which has limited weekly hours to 44. Daily newspaper printing employees ordinarily work shorter hours than other printing employees. One agreement for daily newspaper printing sets hours for night work at $41\frac{1}{4}$ per week averaged over a period of two weeks, and at 44 hours for day work. Certain agreements for special industries, such as, for example, London blind makers, fix a 42-hour week from November to February, but averaged over the whole year the hours may reach 47 per week. In the building industry in England and Wales a 44-hour week is established ordinarily, but it is raised to $46\frac{1}{2}$ hours in summer. Similarly the building industry in Scotland sets 44 hours as the regular limitation but reduces hours to $41\frac{1}{2}$ in December and January.

In *Ireland* a 44-hour week is set by regulation for the boot and shoe industry, tailoring and packing. Collective agreements set a 44-hour week for the clothing and cap industry, and for linotype and monotype operators in Dublin.

In *Italy* employees in banks work, by agreement, a 42-hour week. Insurance companies work $41\frac{1}{2}$ hours.

In *New Zealand*, a statutory limitation contained in the Shops and Offices Act fixes a 44-hour week for workers coming under the scope of the Act. Further, in view of the experience obtained in

that country with the reduction of hours of work, it may be useful to indicate in some detail the scope of the orders, awards and agreements fixing hours between 40 and 44 per week for different industries or occupations in the industrial districts specified ¹.

A 42-hour week has been established by Order, Award or agreement for the following categories of workers: female dental assistants in the Northern and Wellington districts; certain categories of the milk industry employees in the districts of Auckland and Christchurch; night workers in the printing and related trades throughout New Zealand and all typographers except those employed in linotype mechanics departments and in hand work and jobbing work when on day work, warehouse employees in five districts; and radiotricians in the district of Canterbury work 43½ hours. A 44-hour week is provided for aerated water workers in Christchurch and Wellington at certain periods of the year (the average throughout the year must be 42 hours); bacon workers in four districts; employees in the baking industry in four districts; butchers and small goods factories in five districts; employees in by-products manufacturing in three districts; liftmen in Auckland and Canterbury; coal, coke and firewood workers in Wellington for part of the year (maintaining an annual average of 42 hours); chemists' assistants in the Northern and Canterbury districts; fellmongers in three districts; fish workers in the Northern and Wellington districts only; flax milling in Wellington; fruit preserving and vegetable canning in the Northern district (maintaining an annual average of 42 hours); the freezing industry throughout New Zealand; certain employees in the gas manufacturing and distributing industries of Wellington and Wanganui; glue workers in Canterbury; retail grocery trades in the Northern, Wellington and Canterbury districts, hairdressers in a number of districts; jam making and fruit preserving and canning in one district; laundry workers in Wellington; certain categories of employees in lime manufacturing in Canterbury and all employees in lime manufacturing in the Otago and Southland district; all day workers in printing and related trades and typographers in respect of day work employed in linotype mechanics departments and in hand work and jobbing work throughout New Zealand; retail shop assistants in five districts; ship repair work throughout New Zealand; certain categories of work in the soap and candle industry in Wellington and Canterbury; and fruit and produce workers in six districts; storemen employees in the storing and packing industries in six districts (if the industry to which the storemen or packers belong is working less than 44 hours the storeman and packers receive the benefit of the reduced hours); the tailoring trade during certain periods of the year in Otago and Southland district (but maintaining an annual average of 41 hours); the tanning industry in Canterbury and Otago; the wool scouring industry in Wellington and Canterbury, and the wool, grain, hide and manure store employees in seven districts.

In *Spain* metallurgical and steel workers, by a 1936 Order, are subject to a 44-hour week.

In the *Union of South Africa* a wage determination sets a 43-hour

¹ These Awards were issued subsequent to 1 September 1936 and were in force on 1 March 1937.

week for type setting and machine operators in the newspaper and printing industry. In the Cape of Good Hope a 44-hour week applies to general engineering and metal industry.

In the *United States of America* in the State of Wisconsin a code sets hours of work in shoe rebuilding at 44 per week. Furthermore, a few collective agreements set hours ranging between 40 and 44 per week. Particularly important is the building industry in which agreements usually set the 44-hour week.

(d) *Weekly Limitation from 44 to 48 Hours*

General Legislation

There is no general legislation fixing hours between 44 and 48 hours per week.

Regulations applying to Certain Categories of Undertakings or Persons

Regulations setting a week between 44 and 48 hours apply to certain categories of undertakings or workers in the following countries: *Austria, Belgium, Canada, Czechoslovakia, Finland, Great Britain, Ireland, the Netherlands, New Zealand, and the Union of South Africa.*

In *Austria* 46 hours per week are worked in wholesale trade, commission agencies, and distributive undertakings other than shops.

In *Belgium* an order sets a 45-hour week for ship-repairing in Antwerp. The Act permitting a reduction of hours of work to a level not below 40 hours a week in certain cases has applied a 45-hour week to underground workers in metal mines and to the extraction of clay and similar products.

In *Canada* a schedule under the Industrial Standards Act of Ontario applies a 47-hour week to the furniture industry. An agreement, binding under the Workmen's Wages Act of Quebec, fixes 45 hours per week for granite cutters and apprentices.

Most collective agreements in the printing industry of *Czechoslovakia* set either a 46 or a 46½ hour week.

Commercial establishments in *Finland* come under a 47-hour weekly limitation.

A certain number of Trade Board decisions in *Great Britain* set 47 hours as the normal work week. These decisions affect, for example, the hollow ware, keg and drum, coffin and cements, stamp and pressed metal ware trades. Trade Board decisions

covering the hat, cap and millinery trades in Scotland set 46 hours per week. Collective agreements covering workers in industries and trades such as the engineering and allied industries, heating, ventilating and domestic engineering, electrical contracting, vehicle building industry, and day workers in tin plate and sheet manufacture fix a 47-hour weekly limitation. Similarly agreements provide a 47-hour week for railway shopmen, and for certain chemical workers. In the building-industry in England and Wales during the summer months in certain localities a 46½-hour week is fixed. In civil engineering construction men work 44½ hours for one-third of the year and 49½ hours for the other two-thirds. In the furniture making industry in North-Eastern Yorkshire and Manchester when the shops are working six days per week a 46½-hour week is provided; in Manchester, however, furniture making shops may also work a 5-day week with a 46¼-hour limitation. In the printing industry, as has already been indicated, agreements provide for a 45-hour week.

According to various agreements for establishments in the wholesale and retail distributive trades in London, Manchester, and Liverpool, hours of work are fixed at limits varying from 44 to 48.

Trade Board decisions in *Ireland* covering the aerated water trades, tobacco trades and the general waste materials reclamation trade set a 47-hour week.

In the *Netherlands* an Order covering stone cutters provides a 45-hour week.

In *New Zealand* journalists in the district of Timaru have their hours of work limited to 46 a week.

Wage determinations in the *Union of South Africa* covering the leather industry and day work in the printing and newspaper industries (other than type setting and machine operators) provide a 46-hour week.

(e) *Weekly Limitation to 48 Hours*

General Legislation

Legislation covering both industry and commerce sets the 48-hour week in the following countries: *Argentina, Belgium, Brazil, Bulgaria, Canada* (British Columbia, Ontario and Quebec), *Chile, Czechoslovakia, Hungary, Ireland, Latvia, Lithuania, Mexico, Norway, Poland, Spain, Sweden and Uruguay.*

Legislation applying to industry in general, in contrast to that

affecting both industry and commerce, applies the 48-hour week in *Austria, Canada (Alberta), Colombia, Estonia, Greece, Luxemburg, Rumania, Switzerland, Turkey, Venezuela and Yugoslavia*. In the *Netherlands* a general Act applies a 48-hour limit to industry in general and some categories of commercial establishments.

Although the 48-hour limit is applied to all employees coming under the scope of the general regulations, some of the regulations contain restrictions and precisions indicating the method of application of the regulations. It may be useful to note, briefly, therefore, the qualifying clauses found in these provisions.

In *Austria* the regulations limiting hours of work in industry, although providing explicitly for a daily limit of 8 hours, indicate that the 48-hour week may be substituted for the 8-hour daily limitation by collective agreements. Furthermore, in the case of post office, telegraph and telephone employees, mines, and certain skilled workers in the building industry, as well as certain types of work performed in rural areas, the 48-hour per week limit takes the place of the 8-hour per day limit. These workers include locksmiths, white-smiths, house carpenters, glaziers, gas, light and water fitters, and blacksmiths and saddlers in establishments in which not more than three assistants are employed.

In *Belgium* the Act restricting hours to 48 per week originally covered only industry, but it has been extended by Orders to cover employees in offices and commercial undertakings, including post office, telegraph and telephone workers, and employees in banks, exchange agents' offices and insurance companies, as well as the non-clerical staff of certain wholesalers and of travel agents.

The regulations applying the limitation fixed on hours of work of industrial and commercial establishments in *Brazil* provide, as has already been indicated, that certain commercial establishments are subject to shorter hours of work per week.

In *Canada*, in Quebec, an order of the Fair Wages Board, covering all workers receiving a wage or salary except domestic servants, agricultural workers, colonists, and workers already covered by agreements under the Workmen's Wages Act, provides an indirect limitation on hours by determining that the rate of time-and-a-half must be paid to everyone working more than 48 hours a week or less than 30 hours a week.

In *Chile* all wage-earning employees are subject to a 48-hour week limitation, but, as will be seen below, while 48 hours are the normal hours fixed for salaried employees, these hours may be increased to 56 for certain categories of work enumerated below:

In *Czechoslovakia*, not only the general legislation, but also most collective agreements apply the 48-hour weekly limitation.

In *Hungary* the general Decree indicates that 48 hours per week shall be the general rule, but special regulations apply it to particular industries.

In *Latvia*, although the general legislation provides for a 48-hour week, hours are in practice reduced to 46 per week as a result of a provision reducing hours of work by 2 hours on Saturday.

In *Spain*, as in *Austria*, the general Decree of 1931 provides only a daily limitation of hours. However, provision is made that a weekly 48-hour limitation may be substituted for the 8-hour day when the nature of the work does not permit of an even distribution of hours on each day or where an agreement between workers and employees provides for a weekly limitation. In each case joint boards must approve the limitation of hours fixed. Further, decisions of the joint boards apply the weekly limitation in the case of the Italian paste industry in a number of provinces, and to employees of the national petrol monopoly.

In *Uruguay* the 48-hour limitation is in effect except for employees subject to the 36-hour weekly law, in which case a 44-hour week is the general rule.

Regulations applying to Certain Categories of Undertakings or Persons

Regulations applying to certain categories of establishments or workers either in industry or in commerce apply the 48-hour week in *Australia* (South Australia, Tasmania, Victoria and Western Australia), *Canada* (Quebec), *Denmark*, *Germany*, *Great Britain*, *Hungary*, *Italy*, *New Zealand*, *Spain*, *Switzerland*, *Turkey*, the *Union of South Africa*, the *United States of America*, and *Yugoslavia*.

In *Australia*, in the State of South Australia, the 48-hour week is applied by law to women employed in factories and by award to clerks, typists, and other employees in banks. In *Tasmania* the 48-hour week covers all persons employed in factories. Women employed in factories and all persons in mines work under the 48-hour week in *Victoria*. In *Western Australia* all employees in factories and shops work a 48-hour week (excepting for women and persons of Asiatic race, for whom weekly hours are 44). Persons employed in mines below ground also work a 48-hour week.

In the *Canadian* province of *Alberta* schedules apply a 48-hour week in the electrical industry and to tinsmiths, plumbers, steam

fitters, carpenters and similar trades. In Quebec an agreement given the force of law sets a 48-hour week for glove cutters; and regulations under the Hours of Work Act set a 48-hour-week for building trades in certain parts of the province. In Saskatchewan legislation limits the hours of work of women in factories to 48 per week.

In *Denmark*, although the daily limit is more usually found in collective agreements, the 48-hour week is occasionally applied, as, for example, in the cases of blacksmiths and mechanics and occasionally to employees in the textile industry. In the latter case, the 48-hour week is, however, subject to the possibility of averaging.

In *Germany*, although the Hours of Work Order fixes a daily limitation, it is at the same time provided that a weekly limitation may be substituted by the use of collective rules. A number of collective rules, including those for metal working and the electrical industry of Westphalia, as well as for the building industry and the textile industry, limit hours of work to 48 per week.

In *Great Britain* the Factories Act applying to women fixes 48 hours per week, and the same limitation is found in most of the trade board decisions as the figure above which overtime rates must be paid. The same limitation is also found in many collective agreements, as, for example, in most of the agreements in the textile industry and a number of chemical agreements. Further, the agreements covering the metallic bedstead making industry, and some local agreements in the building industry, and agreements covering the manufacture of blinds in London (from August to October) also provide for a 48-hour limitation.

Special regulations in *Hungary* set the 48-hour week for the woodworking industry, upholstering, the boot and shoe industry, textiles and flour milling.

In *Italy* a 48-hour week is worked by salaried employees in both industry and commerce. Wage-earning employees in industry, as has been seen above, work a 40-hour week.

In *New Zealand* hours of work in alluvial gold-mining operations are 48 per week.

In *Switzerland* the Federal Factories Act sets a 48-hour week. In some cantonal legislation, the 48-hour week is applied to certain establishments not covered by Federal legislation.

In *Turkey* the 48-hour week, besides being applied to industry, covers banks, insurance and wholesale trade agencies, and the beet sugar industry with the exception of seasonal workers.

In the *Union of South Africa* the Factories Act and many wage determinations and agreements covering skilled workers in the building industry in the districts of Witwatersrand and Pretoria, the tailoring industry in Witwatersrand, the clothing industry in the Cape, the day shift in the general engineering and metal industry in the Cape, and the baking and confectionery industry in Port Elizabeth, Uitenhage and Walmer, apply the 48-hour week. Similarly, the Mines and Workshops Act applies the 48-hour week but does not cover coal and base metal mines. The Act may be made applicable to such mines by the issuance of regulations.

In the *United States of America* the 48-hour week is set by various State laws. For example, it is worked in logging camps and saw mills, planing mills and shingle mills in Oregon and on public works in Colorado, Massachusetts, Ohio and Oregon. In Wisconsin certain employees in State penal and charitable institutions work a 48-hour week. In New York certain employees in State hospitals, schools, prisons and other institutions work a 48-hour week. Further, a 48-hour week is set for supervisory and administrative employees on projects of the Works Progress Administration. A considerable number of collective agreements in the United States also apply the 48-hour week. This is the prevailing figure set in agreements covering the following industries: flour and cereal products, stoves, retail trades and butcheries. The 48-hour week is found in a small proportion of agreements covering the following industries: steel, glass, cement, electrical equipment, automobiles and parts, pulp, furniture, upholstery, jewellery, glass ware, building construction, packing, tailoring, cleaning and dyeing, building service, printing and publishing, and gas and coke.

In *Yugoslavia*, in addition to the general law covering industrial undertakings and mines, the 48-hour week is set by order for employees in banks, insurance companies, and similar undertakings, and also in certain small industrial undertakings, such as craftsmen's foundries, workshops in which lead, mercury and their alloys are used, tunnels and caissons, printing, mirror and cut glass manufacture, etc.

(f) *Weekly Limitation above 48 Hours*

General Legislation

General legislation limiting hours at a figure higher than 48 per week is found in certain provinces of *Canada*, *India*, and certain States of the *United States of America*.

In *Alberta, Canada*, the Hours of Work Act sets 54 hours as the weekly limit for men. In Ontario the Factories, Shops and Office Buildings Act sets a limit of 60 hours per week, while schedules adopted under the Minimum Wage Act of the same province vary between 48 and 54 hours. As has been indicated above, shorter limits apply to many branches of industry. In New Brunswick, the Factories Act, applicable to women and young persons, limits hours to 50 per week.

In *India* the Factories Act limits hours to 54 per week, with the exception of seasonal factories operated for not more than 180 days a year whose hours are extended to 60 per week.

In the *United States* in the State of North Carolina general legislation limits hours to 55 per week. In the State of Mississippi employees in mills, canneries, workshops, factories or manufacturing establishments are covered by a law limiting hours to 60 per week.

Regulations applying to Certain Categories of Undertakings or Persons

In addition to the legislation just discussed, a few regulations covering certain categories of undertakings or workers fix limits above 48 hours in the following countries: *Australia, Canada, Chile, Cuba, Great Britain, Ireland, the Netherlands, Switzerland, the Union of South Africa, the United States of America and Yugoslavia.*

In *Canada* in the province of Manitoba schedules under the Fair Wage Act may vary from 44 to 54 hours, although 48 hours is the limit most frequently maintained. One schedule under the Industrial Standards Act of Ontario applicable to the packing industry sets 56 hours per week. Similarly 56 hours are provided for men in bakeries under the Factories, Shops and Office Buildings Act of Ontario. In Quebec agreements under the Workmen's Wages Act fix 50 hours per week for granite cutters and hours, varying according to district, between 60 and 72 for the packing industry. Regulations under the Hours of Work Act fix 64 hours as the maximum permitted for the shoe repairing trade in Montreal, Quebec. In the Yukon Territory a Mining Ordinance provides for 56 hours a week.

In *Chile* the normal 48-hour week may be extended to 56 for salaried employees in telegraph, telephone, light and water supply undertakings, theatres, tramway undertakings and other similar services where in the opinion of the General Labour Inspectorate

the business done during the day is obviously not great and where the salaried employees are obliged to be constantly at the service of the public.

In *Cuba* by Decree hours are limited to 56 for industrial work in connection with the cane sugar crop.

In *Great Britain* the Factories Act applying only to women permits hours to be varied up to 54 in factories in which cream, butter and cheese is made or fresh milk or cream is sterilised or otherwise treated before being sold as such. The hours may be raised from 54 to 60 by regulation of the Secretary of State during a specified period of the year.

In *Ireland* a regulation issued under the Conditions of Labour Act modifying the normal hours for work in connection with the manufacture and disposal of dairy produce other than condensed milk provides a 58-hour week..

In the *Netherlands* for work outside factories, workshops, shops, offices, chemists, cafés, hotels and similar trades, a 55-hour week is permitted.

In *Switzerland* for particular industries by authorisation of the Fédéral Council 52 hours may be worked if and so long as it is justified by urgent necessity, or if an industry runs the risk of being unable to withstand competition on account of the working hours in other countries. In Ticino 54 hours are fixed for certain workers not covered by the Federal Factories Act, including casual day workers, bakers, butchers, carters, etc.

In *South Africa* a wage determination covering unskilled and semi-skilled workers in the building industry in the districts of Witwatersrand and Pretoria establishes a 54-hour week.

In certain cases State laws in the *United States of America* set weekly limits higher than 48 hours for certain categories of workers. In the cleaning and dyeing industry in Colorado, certain categories of workers have prescribed hours varying from 53 to 60 per week. A 55-hour week covers cotton and woollen manufacturing in South Carolina. Municipal employees in North Dakota work 56 hours per week. A 60-hour maximum work week is fixed in cotton and woollen manufacturing establishments in Georgia and in mills, canneries, workshops, factories or manufacturing establishments in Mississippi. In Washington hours are 60 per week for domestic service. Employees in State hospitals, penitentiaries and similar institutions in North Carolina may work 84 hours per week. Collective Agreements in the United States occasionally set hours higher than 48 per week. Hours of work for barbers vary from 48

to 56; for butchers the range of exceptions to the 48-hour week sometimes reaches as high a figure as 74 per week, and nearly half the work weeks provided in collective agreements for butchers are longer than 48 hours. Maximum work weeks of 50 hours per week are found in a few agreements in the timber, rubber, machinery and copper industries. In the light and power industries hours are sometimes fixed at 54 and for work in connection with stoves and laundries at 60 per week.

In *Yugoslavia* 60 hours per week are set by order for all employees in commercial and handicraft establishments not covered by special provisions. A 60-hour limitation also applies to construction work. A 54-hour limitation covers employees in handicraft undertakings, engaged in metal turning, file cutting, locksmiths, metal pressing, electroplating, manufacture of orthopædic appliances, dental mechanics, quarries and stone cutting, joiners' work in connection with metal working, the manufacture of electric accumulators and the vulcanising of rubber.

3. DISTRIBUTION OF NORMAL HOURS OF WORK WITHIN THE WEEK

In the preceding section of this chapter the figures set for weekly limitation of hours of work have been examined. In the following section indications will be given of the daily limits which are contained in national regulations in order to supplement the weekly limitations by determining the distribution of the weekly hours over the different days of the week.

It should be noted, however, that in the following cases weekly limits only are set: in *Australia* in a large number of Commonwealth Arbitration Awards, as for example in the building industry, the clothing industry and the boot and shoe industry; in Queensland for certain clerks and switchboard attendants; in South Australia an Award covering certain employees in banks; in *Austria* the wholesale trade, commission agencies and distributive undertakings other than shops; in *Canada* a small number of schedules under the Minimum Wage Act in Manitoba, and the Industrial Standards Act of Nova Scotia and Ontario; a number of collective agreements in Quebec made binding under the Workmen's Wages Act, and in Saskatchewan hours for women, coming under the Factories Act; in *Czechoslovakia* certain agreements for the rayon industry, for alcoholic distilleries and refineries, and glass bottle works; in *Germany* collective rules covering the metal-working and electrical industry in Westphalia, and the building and textile industries;

in *Ireland* collective agreements covering certain undertakings in Dublin and regulations concerning the manufacture and disposal of dairy produce; in *Italy* an agreement applying the 40-hour week to branches of commercial establishments; in *New Zealand* certain insurance workers, and employees covered only by the awards made by the court under the Industrial Conciliation and Arbitration Act; in the *Union of South Africa* wage determinations covering the printing and newspaper industries, the general engineering and metal industry in the Cape Province, and the leather industry; and *Spanish* postal workers, as well as metallurgical and steel workers covered by a *Spanish* Order.

Daily limits on hours will be grouped in the following analysis according to the weekly figure set by the regulations.

(a) *Weekly Limitation below 40 Hours*

In *Brazil* the Decree covering banking establishments sets a 6-hour day.

The Decree for customs officials in *Greece* sets a 6-hour day with the provision that 2 hours may be worked on Sunday.

In *France* the Decrees for underground work in potash, metalliferous, asphalt and bituminous schist mines provide that the working day may be 7 hours 45 minutes, including a daily rest period of 25 minutes; or in the case of potash mines only, that it may be 7 hours 15 minutes without any specified rest period.

The *Australian* Commonwealth Award for newspaper work sets an 8-hour day.

In the *United States* the 8-hour day is observed on dam construction under the Tennessee Valley Authority.

(b) *Weekly Limitation to 40 Hours*

General Legislation

In *France* one of three methods may be adopted for the distribution of working time within the 40-hour week. Such division may be made on the basis of five 8-hour days, six days of 6 hours 40 minutes each, or by allowing unequal distribution over the different days of the week to permit a half-holiday with a maximum, on any one day, of 8 hours.

The Decree covering wage earners in industry in *Italy* provides for an 8-hour day.

The Factories Act of *New Zealand* sets an 8-hour day.

Regulations applying to Certain Categories of Undertakings or Persons

In *Czechoslovakia* a 7-hour day is fixed for certain employees on Government construction.

In *Australia* the 8-hour day is set in some agreements and awards, such as the agreement for the Broken Hill mines, the Commonwealth Awards for newspaper work, the Queensland Building Award and the Queensland Award for clerks and switch-board attendants.

In *Belgium* the 8-hour day is set by the Decree covering the diamond industry.

In *Canada* the following schedules and agreements set the 8-hour day: the Alberta schedules covering building and decorating trades, the Ontario schedules for similar work and also for millinery and photo-engravers, and the Quebec agreements for millinery, ladies' cloak and suit, and printing trades.

The Act of 1936 in *Catalonia (Spain)* makes possible the limitation of daily hours to 8 per day.

The 8-hour day is provided in the *United States of America* for postal employees, the Federal Bureau of Engraving and Printing, workers covered under the Government Contracts Act, clerks and non-manual workers on public works and T.V.A. employees. The 8-hour day is also provided for by the Wisconsin codes for construction trades and cleaning and dyeing.

(c) *Weekly Limitation from 40-44 Hours (inclusive)*

General Legislation

In the *United States of America* the State law of Pennsylvania sets an 8-hour day. Regulations permit an increase of the daily limit if a 5-day week is worked.

In *Venezuela* the 8-hour day applies to commercial undertakings and offices unless it is increased to 9 in order to permit a weekly half-holiday.

Regulations applying to Certain Categories of Undertakings or Persons

A 7-hour day is set by the Decree covering pawnbrokers in *Brazil*.

In *Canada* civil servants work $7\frac{1}{2}$ hours a day ordinarily and $6\frac{1}{2}$ hours during July and August.

In *Italy* employees in banks and insurance companies work a $7\frac{1}{2}$ -hour day.

In *Australia* some awards, such as the Australian Commonwealth Award for newspaper workers, setting a weekly limit between 40 and 44, also set an 8-hour day.

The *Canadian* Dominion Fair Wages Act provides for an 8-hour day.

According to regulations issued under the Conditions of Labour Act of *Ireland*, an 8-hour day is set for the boot and shoe industry, tailoring and baking.

The Shops and Offices Act of *New Zealand* sets an 8-hour day.

In the *United States of America* the collective agreements in the building industry which frequently set a 44-hour week also apply an 8-hour daily limit.

In *Australia* Commonwealth Awards for builders' labourers set a 9-hour day. In Queensland an 8-hour day is applied by law which may be extended if a 5-day week is provided for. The Commonwealth metal trades award divides the 44-hour week into 5 days of 8 hours and 48 minutes.

(d) *Weekly Limitation from 44 to 48 Hours*

General Legislation

There is no general legislation setting hours between these figures.

Regulations applying to Certain Categories of Undertakings or Persons

In *Belgium* an 8-hour day with 5 hours on Saturday is worked on ship repairing in Antwerp.

A collective agreement in Quebec (*Canada*) fixes an 8-hour day for granite cutters and apprentices.

Commercial establishments in *Finland* work an 8-hour day, which may be increased to 9 in case of a short day.

In the *Netherlands* stone cutters work by Order an 8-hour day.

In *Ireland* Trade Board decisions set an 8½-hour day in the tobacco trades. The same figure is set in the general waste materials reclamation trade unless the 5-day week is customary.

(e) *Weekly Limitation to 48 Hours*

General Legislation

General legislation covering both industry and commerce sets a 48-hour week and an 8-hour day in *Bulgaria*, *Hungary* (although special Decrees permit variations in the daily limit), *Latvia* and *Poland*. Legislation setting a 48-hour week in industry in general also fixes an 8-hour day in *Austria*, while in *Lithuania* an 8-hour day applies to industry and a 10-hour day to commerce. The general legislation of *Ireland* sets a 9-hour day. In *Australia*, in South Australia and Victoria for women and in Tasmania for employees covered by the Factories Act, a 10-hour day is in effect.

Legislation covering both industry and commerce, although setting an 8-hour day if the 48-hour week is distributed over six days, makes provision for a 9-hour day in order to permit a half or whole holiday, in *Argentina*, *Canada* (British Columbia), *Chile* (for salaried employees other than those subject to a 56-hour week), *Colombia*, *Norway*, *Spain*, *Sweden* and *Turkey* (for certain categories of commerce only). Similar limitations are fixed in the legislation applying to industry in general in *Estonia*, *Greece*, *Luxemburg*, *Rumania*, *Venezuela* and *Yugoslavia*. In *Brazil* general legislation sets an 8-hour day which may be increased to 10 to secure a free day. In *Belgium*, *Chile* (for wage earners), *Czechoslovakia*, *Cuba*, *Italy* (for salaried employees), *Poland* (for Upper Silesia only) and *Uruguay* general legislation setting an 8-hour day and 48-hour week authorises the daily limits to be exceeded provided that the weekly limit is maintained if hours are distributed over 5 or 5½ days. The same system of limitation is provided for employees covered by the Swiss Federal Factories Act. In *Uruguay* the use of this extension depends upon there being special circumstances in which the work cannot be interrupted.

In *Australia* (Western Australia) the Factories Act fixes an 8¾-hour day, which may be increased to 10. In *Canada* (Quebec) an order of the Fair Wages Board referred to above provides that overtime rates shall be paid to any employee working more than 10 or less than 4 hours per day. In the *Netherlands* daily hours of work, which are usually fixed at 8½, may be prolonged up to a maximum of 11 hours, but such cases would appear to be granted

not so much in order to allow for a weekly half-holiday, which is already customary under the $8\frac{1}{2}$ -hour day, but to meet the technical requirements of certain industries or economic activities. A 10-hour day is provided for men employed in the salting of hides and skins; the manufacture of cement articles; certain peat workers on the last 3 days of the week; brick works with open drying sheds in cases in which the workers are employed less than $8\frac{1}{2}$ hours on other days of the week, owing to atmospheric conditions, from 1 April to 1 October; to the printing of daily and weekly papers on 2 days of the first 5 days of any week; to laundries attached to swimming pools or bathing establishments on Saturdays; to oil cloth factories; to glue factories; and to oyster beds in respect of work subject to the influence of the tides. An 11-hour day is applied in the case of slaughtering when the work must be done outside usual hours, in connection with the arrival of cattle and the despatch of the product; pastry-cooks; the drying and cutting of peat; the watching of keers in leather glove factories; boot repairing shops on Fridays; breweries operating on a single shift; factories and workshops in which power is exclusively provided by wind or water; the finishing, bleaching and dyeing of wool, textile printing, finishing of wool cloth and the finishing and calendering of textiles on the first 5 days of the week; the despatch of fresh fish or shell fish, the smoking of fish, the working of oyster beds and related work, necessary to avoid losses or ensure despatch; barrel works, net repairing, ice manufacturing, sail dyeing, sail, mast and tackle manufacturing on work which is required to enable the fishing fleet to sail at the right time; cleaning, sorting and fixing tackle on fish hook nets; fish curing; work in butchers' and poultry shops and establishments connected with the cleaning of fish and shell fish in connection with a shop retailing to the public.

Regulations applying to Certain Categories of Undertakings or Persons

Apart from the cases just indicated an 8-hour day is established for certain categories of persons or undertakings in addition to the 48-hour week in the following cases.

In *Australia* (Victoria and Western Australia) provision is made that no person shall be employed below ground in any mine more than 8 consecutive hours. 8 hours include one travelling time. In *Canada* (Alberta) the 8-hour day is set by schedules applying to certain of the building trades. In *Italy* wage-earning employees

in industry and salaried employees in both industry and commerce work an 8-hour day which may be extended to provide for the Fascist Saturday. In the *Union of South Africa* the 8-hour day is set by law for mines. In the *United States of America* the 8-hour day applies to public works in, for example, Colorado, Massachusetts, Ohio and Oregon; in logging camps and saw mills, planing mills and shingle mills in Oregon; in certain State institutions of Wisconsin and New York.

An 8-hour day which may be extended to 9 if a short day is worked is provided for in the regulations of *Hungary*, applying to the woodworking industry, in the Factories Act of the *Union of South Africa* and in the regulations of *Yugoslavia* applying to all industrial undertakings and to banks, insurance companies and similar undertakings. The 8-hour day may be extended to 10 by regulations in *Hungary* applying to upholstery, printing, boot and shoe, textile and flour milling.

In *Great Britain* the Factories Act covering women sets a 9-hour day which may be extended to 10 hours if a 5-day week is worked. A number of Trade Board decisions which usually provide for distribution of weekly hours over $5\frac{1}{2}$ days with a daily limit of 9 hours (although in a few cases the daily limit is $8\frac{1}{2}$ or $8\frac{3}{4}$ hours) sometimes enable the daily hours to be increased to 9 hours, $9\frac{1}{2}$ hours, 9 hours 36 minutes or 10 hours where a 5-day week is customary. In addition the 48-hour week agreement for the bleaching and dyeing industry provides for an 11-hour day.

In *Switzerland* (Basle Town) the legislation covering persons not included under the Federal Factories Act sets an $8\frac{1}{2}$ -hour day which may be extended to $8\frac{3}{4}$ hours by approval of the competent authorities. A 9-hour day is set in the building industry. In Ticino (Switzerland) an 8-hour 45-minute day applies to establishments not covered by the Federal legislation. In the canton of Valais (Switzerland) persons doing industrial work not covered by the Federal Factories Act work a 10-hour day.

(f) Weekly Limitation above 48 Hours

General Legislation

In *Canada* (Alberta) the Hours of Work Act sets a 9-hour day which may be extended by one hour if a short day is worked. In Ontario a 10-hour day is set by the Factories, Shops and Office Buildings Act.

In *Chile*, for those salaried employees whose weekly hours are

limited to 56, the normal daily hours are 9 hours and 20 minutes, which may be increased to 10 to permit a short day.

The Factories Act of *India* sets a 10-hour along with a 54-hour week, but the day may be increased to 11 hours in seasonal factories which are subject to a 60-hour limit.

In the *United States of America* the general law of North Carolina sets a 10-hour day. In Mississippi the 10-hour day is set in mills, canneries, workshops, factories or manufacturing establishments.

Regulations applying to Certain Categories of Undertakings or Persons

In *Canada* the legislation covering mining in the Yukon Territory sets an 8-hour day.

In *Cuba* an 8-hour day is set by Decree for industrial work connected with the sugar cane crop.

In the *United States of America* (North Dakota) municipal employees work an 8-hour day.

In *Great Britain* the Factories Act, in those exceptional cases which set a 54-hour weekly limit, provides for a 9-hour day which may be extended to 10 hours if a 5-day week is worked.

In the *Union of South Africa* a 9-hour day is established by a wage determination for unskilled and semi-skilled workers in the building industry.

In *Yugoslavia* a 9-hour day applies to certain categories of commercial and handicrafts undertakings.

A 9½-hour day is established by law in the *Swiss* canton of Ticino for certain persons not covered by the Federal Factories Act such as casual day workers, bakers, butchers and carters.

In the following cases a 10-hour day is established:

Legislation in the *Netherlands* sets this daily limit in addition to a 55-hour week for work outside factories, shops, offices and so forth.

In the *United States of America* the 10-hour day is set in addition to the weekly limit described in the preceding section for certain manufacturing establishments in Georgia, Mississippi and North Carolina.

In *Yugoslavia* a 10-hour day is set by Order for all employees in commercial and handicrafts establishments not covered by special provisions.

In the *United States of America* the State of North Carolina permits a 12-hour day to be worked in State hospitals, penitentiaries and similar institutions.

4. LIMITATION OF HOURS OVER PERIODS EXCEEDING ONE WEEK

(a) *Average Limits*

Regulations of a general character providing for the possibility of hours of work being calculated as an average over more than one week exist in *Argentina*, the *Canadian* provinces of *Alberta* and *British Columbia*, *Czechoslovakia*, *Luxemburg*, *Mexico* and *Norway*. In each case, however, averaging is only possible as an alternative to a more rigid system, and may only be resorted to as a special arrangement. In *Turkey*, a general Act provides for the possibility of future regulations permitting averaging. In *Finland* hours of work in industry in general may be calculated over a fortnight, although the daily limit is maintained.

In addition, there are in a number of countries regulations of a limited scope according to which hours of work are calculated in this manner. These together with the general legislation which has just been enumerated will be mentioned below classified according to the average weekly hours, and the number of weeks over which these may be calculated.

The procedure which has to be followed if hours are to be calculated as an average and the conditions which have to be fulfilled in such cases have been described above in the explanations given on the methods of limitation of hours of work.

(i) *Average 40-hour Week*

General legislation

There is no legislation providing for an average 40-hour week.

Regulations applicable to certain categories of undertakings or persons

The 40-hour week is calculated as an average over 4 weeks in *Czechoslovakia* in the case of certain workers, mainly skilled workers employed on public works undertaken or subsidised by the State.

The 40-hour average limit may be calculated over two weeks in *France* for those processes in the chemical industry in which the length of the operations makes this necessary, and over three weeks in connection with certain technical work in flour milling and with workers employed on the lines and mains in undertakings for the generation and distribution of electricity and on mains in undertakings for the purifying, raising and distribution of water.

It is calculated over a year in the case of undertakings for the distribution of water. In climatic and tourist resorts which have either a single season of 4 months or 2 seasons amounting in all to 6 months a year, during the season a 9-hour day and 48-hour week may be worked, this being compensated during the rest of the year by rest days so arranged as to grant 48 hours continuous rest each week.

The period over which the average 40-hour week may be calculated is not defined in the Decrees covering a number of industries. These Decrees provide that averaging will only be allowed as a result of a ministerial order based on collective agreements and it is only when the order is issued that the period of calculation will be mentioned. This is the position in the Decrees applicable to slaughtering (with a maximum of 48 hours a week), the manufacture of alcohols for human consumption, in cases of exceptional and unforeseen pressure of work with a maximum of 44 hours a week, biscuit manufacturing, metal working, printing and kindred trades, the hides and leather industry, paper manufacturing, gas and electricity undertakings, the handling of goods in customers' warehouses and stations of large railway companies and water supply undertakings. In the above cases the daily hours of work are usually limited to 9.

In the *United States of America* the hours of work of railway postal clerks which are fixed at 6 hours and 40 minutes a day, may be averaged over 306 days a year; in the State of Wisconsin, the 40-hour week may be averaged over 6 months in the case of the Highway Construction Code.

(ii) *Average 40 to 48-hour Week*

General legislation

There is no general legislation providing such limits with averaging.

Regulations applicable to certain categories of undertakings or persons

Regulations provide for an average weekly limit of between 40 and 48 hours, which may be calculated over 2 weeks in *Australia*, in the case, for instance, of the Metal Trades Award, where a 48 and 40-hour week may alternate, and in the collective agreements in *Great Britain* for the daily newspaper printing industry, where a 48 and a 40-hour week alternate on day work and a 45 and 37½-hour week on

night work, yielding averages of 44 and $44\frac{1}{4}$ hours respectively. A similar arrangement applies in *Ireland* for the printing of newspapers in Dublin from October to April, where alternate weeks of 45 and $37\frac{1}{2}$ hours are worked.

An average 44-hour week may be calculated over any period up to 4 weeks in *Australia* (New South Wales) in accordance with the awards rendered and agreements approved by the Industrial Commission.

In *Switzerland* officials have an average $45\frac{1}{2}$ -hour week, the law not determining the period of averaging.

(iii) *Average 48-hour Week*

General legislation

An average 48-hour week may be applied as a result of the general legislation in *Argentina*, *Canada* (British Columbia), *Colombia*, *Czechoslovakia*, *Finland*, *Luxemburg*, *Mexico*, *Norway*, *Rumania* and *Turkey*.

The hours are averaged over 2 weeks in *Argentina* and *Finland*, 4 weeks in *Czechoslovakia*, and 6 weeks in *Norway*, if the nature of the establishment or of the work necessitates irregular distribution of hours.

In *Rumania* averaging is permitted in the industries subjected to seasonal fluctuations depending on climatic or agricultural conditions. The period over which hours are calculated must not exceed 3 months. The regulations applying this provision cover principally the sugar industry, fruit and vegetable preserving, brewing, the manufacture of coffee substitutes, of yeast and of edible oils.

The average 48-hour week may be calculated over a year in *Norway* for cases in which exceptional pressure of work arises in an industry or an establishment at regularly recurring times of the year on account of the season of the year, the climate or other conditions; a maximum 54-hour week and 10-hour day is then provided.

No period for the calculation of the average is stipulated in the regulations considered in *Canada* (province of British Columbia) in cases in which the normal limits of hours are recognised as being inapplicable, in *Colombia* in exceptional cases in which it is obvious that the work must be carried on for more than 8 hours a day, and in *Luxemburg*, *Mexico* and *Turkey*. In the latter country the Act only provides for the possibility of regulations being issued

permitting averaging, but this faculty would not appear to have been used.

Regulations applicable to certain categories of undertakings or persons

Examples of averaging are to be found in certain cases in *Austria, Belgium, Germany, Great-Britain, Hungary, Italy, the Netherlands, Switzerland, and Yugoslavia.*

An average 48-hour week is calculated over 2 weeks in the following cases: in *Austria*, it applies to work in commercial distilleries and malt works where hours are limited to a maximum of 12 in the day; in brewing houses of breweries in connection with the cooling of the wort and with the fermentation of the beer; in flour mills with a weekly capacity of over 100 quintals, and in saw mills operated by water power; for motor-car repairing; and for certain workers in and about mines whose duties cannot be brought regularly within fixed hours, such as drivers, trammers, motor drivers, horse-tenders, messengers, roadmen on mine railways and persons engaged in the distribution of the necessities of life.

In *Belgium* it applies in dyeing, bleaching and finishing of textiles, with a maximum 9-hour day.

In *Germany* a 2-week basis of calculation is mentioned in the Hours of Work Order and in some of the collective rules, including those applicable to banks throughout the country, and to commercial employees in East Prussia.

In *Great Britain* certain Trade Board decisions provide for the possibility of work on alternate Saturdays.

In the *Netherlands* a provision relating to offices indicates that if specially urgent work is done on Saturday afternoon, thus causing the limit of hours for that week to be exceeded, such work shall be deemed to be performed in the following week.

The average limits may be calculated over 3 weeks in *Belgium* for agents of the post office, telegraph, and telephone administration engaged on work away from their base and in the case of removal undertakings.

The same period of averaging applies in the *Netherlands* in the case of night repairs, cleaning and heating at night in railway and tramway repair shops; cleaning and repairing at night in car-hiring establishments; cleaning in iron, steel and other metal foundries; the heating of open brick ovens; and in cheese factories for pressing cheeses, taking them out of the moulds and putting them in pickle. Another clause of the *Netherlands* legislation provides for averaging

subject to different conditions over 3 or 4 weeks, in the case of repair work and other urgent work which must usually be done at odd hours. This includes building and road repairs, repair and urgent work on boilers, bridges, gas and electricity installations, post office, telephone, telegraph and wireless installations, ship repairs, motor-cycle repairs, aeroplane repairs, disinfecting work, loading and unloading and storing of goods, the preparation of cement, the manufacture of coffins for immediate use, the drying of moulds in foundries and the cooling-off of casts. This averaging is subject to the observance of a 12-hour maximum day with a possible 16 hours on one day and a 58-hour maximum week, and to a further provision that not more than 54 hours during 3 weeks may be worked between 10 p.m. and 6 a.m.

The 48-hour week is calculated over 4 weeks in *Belgium* for the retting of flax in hot water, running or still water, or by sprinkling, and in certain *German* collective rules, e.g. those applying to the quartzite industry in Westphalia, and to plaster works in Bavaria.

A 6-week period of application is provided in *Austria* in the case of peat works.

Calculation over 8 weeks is permitted in *Germany* in the collective rules applicable to the building industry.

A 12-week basis is also to be found in the *German* collective rules for road building in the South West of Germany and in *Hungary* in the Decree concerning the textile industry in the case of dyeing, bleaching and printing of textiles; in this case a maximum limit of 10 hours a day and 60 hours a week is stipulated.

A 3-month period is provided in *Italy* for the textile industry in branches other than dyeing, finishing and bleaching, where the 48-hour week may be averaged with a maximum 60-hour week and 10-hour day ¹.

A 6-month period of averaging is provided for in *Belgium* in the case of breweries and the retting of flax in rivers (15 April to 15 October), and for temporary sawmills situated in forests. The daily limit is 9 hours except in the case of sawmills, where it is 10. In the case of the retting of flax, 1,200 hours are allowed in the period in question. In the case of the retting of flax in wells in fields, the averaging may be extended to 9 months

¹ The Decree Law of 1937 approving the 40-hour week refers in the case of seasonal industries to the schedule embodied in the Decree of 1923, pending the issue of new regulations. Reference is made above, therefore, to the figures contained in the schedule of 1923.

(15 January to 15 October), 1,800 hours being permitted in this period with a maximum 9-hour day.

The 48-hour week may be calculated over a year in the following cases: In *Belgium* in brickworks the 8-hour day may be averaged over the year, but the maximum day is fixed at 10 hours from 15 April to 15 October, and to 9 hours during the rest of the year. In *Italy*, in the dyeing, bleaching and finishing sections of the textile industry, in quarries connected with brickworks and cement works, for the breeding of molluscs and for the technical staffs of locomotive threshers, the 48-hour average may be calculated over a year, provided that a maximum of 10 hours a day and 60 hours a week may be worked during not more than 3 months of the year in the first three cases and 5 months in the last two cases.

In *Switzerland* an average 8-hour day, calculated over the year, is provided in the case of employees engaged in the construction and maintenance of telegraph and telephone installations. In the canton of Ticino, this average applies to the building industry subject to a maximum $8\frac{3}{4}$ -hour day and a 52-hour week.

The 48-hour week may be averaged over a period which is not specifically referred to in the regulations in the following cases:

In *Belgium* a 10-hour day may be worked on 2 days a week in slaughtering, subject to the average 48-hour week.

In *Denmark* a collective agreement for the textile industry provides that the hours of work may be distributed over the season provided that the average normal limits are not exceeded.

In *Germany* collective rules for the building of motor roads in certain parts of the country provide that the period over which the hours may be calculated is that required to build a certain stretch of road.

In *Great Britain* collective agreements in the bleaching and dyeing industry provide for an average 48-hour week with a maximum of an 11-hour day and a 60-hour week.

In *Hungary* averaging is permitted under special Decrees for the woodworking industry, subject to a 9-hour day and a 54-hour week, and for the upholstery industry, subject to a 9-hour day and a 54-hour week if a 6-day week is worked, and a 10-hour day if a 5-day week is worked.

In *Switzerland* in the canton of Basle Town, for underground construction work and for those categories of surface building work which are dependent on the weather, the period for the calculation of the average is the building season.

In *Yugoslavia*, in certain handicrafts and commercial under-

takings, averaging is permitted over a period to be determined by agreement.

(iv) *Average exceeding 48 Hours a Week*

General legislation

In *Canada*, in the province of *Alberta*, hours may be averaged on the basis of a 54-hour week if normal limits of hours are recognised as being inapplicable.

Regulations applicable to certain categories of undertakings or persons

In *Yugoslavia* the 54 or 60-hour week provided for certain handicrafts and commercial undertakings may be averaged over a period to be determined by agreement.

(v) *Number of Weeks over which Average Limits may be calculated*

In this connection a summary is given of the provisions made in the regulations regarding the number of weeks over which hours of work may be calculated, irrespective of the average limits which have been analysed above. As these provisions have already been described, the scope of each of them will be given here in a summarised form only.

Calculation over two weeks

This is to be found in the general legislation in *Argentina* and in *Finland*.

It is also to be found in the special regulations applicable to certain categories of undertakings or persons in *Australia*, *Austria*, *Belgium*, *France*, *Germany*, *Great Britain*, *Ireland*, the *Netherlands* and *Switzerland*. In *Australia* it applies to the Commonwealth Metal Trades Award. In *Austria* it applies to commercial distilleries and malt works, to certain workers in the brewing industry, flour mills driven by water power having a weekly capacity of more than 100 quintals, to saw mills operated by water power, to the repair of motor cars and to certain workers in or about mines. In *Belgium* it applies to the bleaching, dyeing and finishing of textiles, and in *France* to the chemical industry only in so far as the duration of processes renders the system necessary. In *Germany* several collective rules provide for averaging over two weeks; this is more particularly the case for banks and for commercial employees in East Prussia. In *Great Britain* some of

the Trade Board decisions provide for the possibility of working only on alternate Saturdays. This amounts to averaging over two weeks. In *Ireland* a similar system applies on Dublin newspapers. In the *Netherlands* it occurs in certain cases of urgent work in offices. In *Switzerland* calculation over two weeks applies to certain customs officials.

Calculation over three weeks

This is the case in *Austria* for flour mills driven by water power having a weekly capacity of less than 100 quintals; in *Belgium* for certain post office, telephone and telegraph employees and in the case of removal undertakings; in *France* for certain workers in the flour milling industry and for the employees on electrical undertakings working on lines and mains and in undertakings for the purification, raising and distribution of water for work on mains, and in the *Netherlands* as regards certain night repairs in certain transport undertakings, for heating brick ovens, cleaning in iron, steel and other metal foundries, and certain operations in the cheese industry.

Calculation over four weeks

In *Australia* (New South Wales) the awards rendered and the agreements approved by the Industrial Commission may provide for averaging over a period not exceeding four weeks. In *Belgium* this period of averaging is provided for in the case of certain processes for the retting of flax. In *Czechoslovakia* this period of calculation applies to all the cases in which averaging is authorised. In *Germany* it applies in certain collective rules, for instance the quartzite industry in Westphalia and the plaster works industry in Bavaria. In the *Netherlands* it is a limit stipulated for repair work and other urgent work which must necessarily be done at odd hours.

Calculation over one month

Averaging is on a monthly basis for postal and telegraph workers in *Latvia*; on the basis of twenty-six working days a month, for certain categories of customs officials in *Sweden*; and for manual workers in certain public works in the *United States of America*. These provisions are analysed below.

Calculation over six weeks

This limit is provided in *Austria* for peat works and in *Norway* in certain cases where averaging is authorised.

Calculation over eight weeks

This limit is provided in *Germany* in the collective rules for the building industry.

Calculation over twelve weeks

This limit is to be found in *Germany* in the collective rules for the building of motor roads in the South West of Germany and in *Hungary* for the dyeing, bleaching and finishing of textiles.

Calculation over three months

This is the period over which hours may be calculated in the textile industry in *Italy* in branches other than the dyeing and finishing, and in *Rumania*, as a maximum, for seasonal industries.

Calculation over six months

In *Belgium* certain regulations for brewing, the retting of flax, and saw-mills and in the *United States of America* (Wisconsin), the Highway Construction Code provide for the calculation over this limit.

Calculation over nine months

This limit is provided for in *Belgium* in the case of the retting of flax in wells and fields.

Calculation over one year

The provision that the weekly limits of hours of work may be averaged over one year is to be found in *Belgium* in the case of brickworks; in *Italy* for certain specified seasonal industries, including the dyeing, finishing and bleaching of textiles, work in quarries connected with brickworks and cement works, the breeding of molluscs, etc.; in *Norway* in the case of seasonal industries and in *Switzerland* for workers engaged in the construction and maintenance of telephone and telegraph installations, as well as in the canton of Ticino for the building industry.

Another form of calculation over a year is provided by the determination of the annual number of hours which may be worked. This method of limitation is discussed below. It arises in the case of *Belgium* for undertakings operated by wind or water only, in *Estonia* and *Latvia* for post office employees, in *Luxemburg* for tilers and in the *Netherlands* whenever the Minister grants an exception to this effect.

Reference should also be made to the cases described below in which regulations provide for different limits of hours at different

times of the year; these cases exist in *Belgium* for a number of industries including among them, some of the food industries, the metal trades, the clothing industry and the tourist industry; in *Great Britain* as regards certain workers in the building, civil engineering and furniture industries; and in *Luxemburg* for the building industry; in *New Zealand* for aerated waters, food preserving, jam making and clothing industries, and in *Poland* for road menders.

The period over which the average may be calculated is not determined in *Canada* in the provinces of Alberta and British Columbia, when used for cases in which it is recognised that normal limits of hours are inapplicable; in *Colombia*, when averaging is necessary; and in *Yugoslavia* whenever averaging is allowed. Similarly, averaging of an undefined period is permitted in particular industries: in *Belgium* as regards slaughtering; in *Denmark* for the textile industry; in *France* in the various decrees other than those already mentioned above; in *Great Britain* for the dyeing and finishing of textiles; in *Switzerland* in the canton of Basle Town for the building industry; and in *Yugoslavia*, for commercial and handicrafts undertakings.

(vi) *Maximum Daily Limits*

When regulations authorise the calculation of hours of work as an average over several weeks, many regulations introduce a maximum daily limit to prevent an undue extension of the working day.

No such daily limit has, however, been introduced in *Argentina*; in the *Canadian* provinces of Alberta and British Columbia; in *Czechoslovakia*; in *Denmark* in the case of the textile industry; in *France* in the case of the manufacture of alcohol for human consumption; in *Luxemburg*; in *Mexico*; in the *Netherlands* in the case of night repair work in certain transport undertakings, cleaning, in iron and steel and other metal foundries, in heating brick ovens, and for certain types of work in cheese factories; in *Norway*; in *Rumania*; in *Switzerland* as regards officials other than customs officials, and for the building industry in the canton of Basle Town; and in *Yugoslavia*, for handicrafts and commercial undertakings. In many cases, although no daily limit is fixed, the conditions under which averaging is allowed provide for an agreement between employers' and workers' organisations or for a specific act of the competent authority. Daily limits may thus be determined by such agreement or by the competent authority.

The following daily limits are found in the regulations which permit averaging.

Daily maximum of 8 hours or less

This limit is to be found in certain regulations in *France, Germany, Great Britain, Ireland, Switzerland* and the *United States of America*.

In *France* an 8-hour maximum applies, in electrical undertakings, to persons working on lines and mains and in undertakings for the purifying, raising and distribution of water for work on mains.

In *Germany* it is to be found in certain collective rules, while in banks overtime is paid after 8 hours a day.

In *Great Britain* the daily newspaper printing agreement provides for an 8-hour day (7½ hours at night).

In *Ireland* the Dublin newspaper agreements also provide for a 7½-hour day.

In *Switzerland* customs officials in principal and in first and second class offices have an 8-hour day.

In the *United States of America* the limit applies to certain public works under the Federal Emergency Relief Appropriation Act as regards manual workers, as well as the Works Progress Administration.

Daily limit of 9 hours

The 9-hour limit is to be found in *Argentina* in the case of the sale of soft drinks; and in *Belgium* for the bleaching, dyeing and finishing of textiles, in the retting of flax, in breweries, in certain sawmills and in a number of industries in which 9 hours may be worked during one part of the year and 7 or 7½ hours during the rest of the year. In *France* nearly all the cases which permit averaging do so on the condition that the daily limit does not exceed 9 hours. Cases where this is not so are mentioned elsewhere. In *Hungary* a 9-hour limit applies in the special Decree covering the wood-working industry, and also to the upholstery industry where a 6-day week is worked. In *Switzerland* this limit applies to customs officials of third, fourth and fifth-class stations.

Daily limits of 10 hours or more

A 10-hour day is permitted in *Belgium* in the case of undertakings in which wind or water are the only motive power, and removal undertakings; in *France* for certain workers in the flour milling industry; in *Hungary* in the upholstery industry when a 5-day week is worked, and in the textile industry as regards the dyeing,

bleaching sections; in *Italy* wherever averaging is allowed and in *Norway* in the case of seasonal industries. An 11-hour day may be worked in *Great Britain* in the bleaching and dyeing of textiles and in the *Netherlands* whenever averaging is permitted over a year.

(vii) *Maximum Weekly Limits*

When hours may be calculated as an average a maximum which may not be exceeded in any one week, except by having recourse to the overtime provisions, is sometimes fixed. The fixing of such a maximum weekly limit is, however, the exception rather than the rule. The following limits may be mentioned:

44 hours are provided in *France* in the case of the manufacture of alcohols for human consumption; a 45-hour limit arises in *Ireland* in the case of the Dublin Newspapers Agreement; a 48-hour limit is to be found in *France* for the slaughtering industry and in *Great Britain* as regards daily newspaper printing, although for night work the limit is reduced to 45 hours. A 50-hour week is embodied in *Great Britain* in the decisions of some of the Trade Boards; a 52-hour week is the maximum permitted in *Switzerland* (Ticino) in the building industry; a 54-hour week is provided in *Hungary* in the special decrees in the wood-working and upholstery trades and in the *Netherlands* for certain types of repair work in transport undertakings done at night, for cleaning in iron, steel and other metal foundries, the heating of open brick ovens and for certain types of work in cheese factories, and in *Norway* in seasonal industries. A 60-hour week is provided in *Hungary* in the special Decree for the textile industry as regards operations which cannot be interrupted at will and in *Italy* in all cases in which averaging is permitted; a 62-hour weekly maximum may apply in the *Netherlands* whenever special exceptions permitting averaging over the year are granted.

(b) *Determination of Monthly Limits*

In addition to the above, in *Latvia*, *Sweden* and the *United States* average limits are in certain cases calculated over a month in a manner which does not lend itself to classification on the basis of the week. Thus, in *Latvia*, an Order covering post office, telephone and telegraph employees provides that in Riga and other large towns where the work is intensive and tiring and involves night work, the limit shall be 156 hours a month; in smaller places in the same case, 208 hours. If the work is less intensive and tiring

and includes rest periods of from one to two hours a day, the limits shall be 182 hours in Riga and other large towns and 234 a month in smaller places. On the other hand, if the rest periods exceed two hours per day, the limits are raised to 208 and 260 hours a month respectively.

In *Sweden* certain categories of customs officials work 194, 204, 208 or 215 hours according to whether the month consists of 28, 29, 30 or 31 days, with a maximum 11-hour day.

In the *United States of America* for manual workers on certain public works undertaken under the Federal Emergency Appropriation Act the limit set is 130 hours per month. The Works Progress Administration sets a limit of 140 hours a month for employment in W.P.A. projects and 70 hours a month for National Youth Administration projects.

(c) *Determination of Annual Limits*

In some cases regulations provide the number of hours which may be worked within a year. Such provisions never apply to industry in general, but are to be found with a limited scope in *Belgium, Estonia, Latvia, Luxemburg* and the *Netherlands*.

In *Belgium*, in regard to undertakings operated with wind or water as the only motive power, a limit is fixed at 2,400 hours a year with a daily maximum of 10 hours.

In *Estonia* the regulations for the post office, telephone and telegraph employees, provide for 2,310 hours a year in the case of work by day which may include up to 20 per cent. of night work, and 1,540 hours a year for night work; the daily average is 8 hours. Deduction must be made for hours lost through holidays, sickness and other authorised absence.

In *Latvia* the normal hours of post office, telegraph and telephone employees, which are 208 a month in smaller localities, and 156 a month in Riga and other large towns, are subject to longer hours in cases where the work is less intensive and may be prolonged or reduced by 2 hours a day if the service so requires, as a temporary measure, provided that the total number of hours which may be worked in a year is not exceeded thereby.

In *Luxemburg* a collective agreement for tilers limits hours to 2,400 in 300 days, i.e. an average of 8 hours a day.

In the *Netherlands* the Minister may authorise the calculation of hours whenever he considers an exception desirable on the basis of 2,500 hours a year, which figure may be increased propor-

tionately for those industries in which the normal working week exceeds 48 hours. A maximum 11-hour day and 62-hour week are stipulated.

(d) *Regulations providing for Different Limits
according to Season*

In certain cases regulations may provide for different limits of hours at different times of the year. This is the case, in particular, in *Belgium, Great Britain, Luxemburg, New Zealand and Poland.*

In *Belgium* in industries such as the food industries, including, in particular, the preserving of eggs by refrigeration, confectioners, biscuit manufacturing, cheese making and in certain metal working industries, such as the manufacture of bicycles and in the clothing industry for the manufacture of ladies' hats and boots and shoes, a 9-hour day may be worked during a part of the year and a 7-hour day during the rest of the year.

In the case of the manufacture of artificial ice, a 9-hour day may be worked during part of the year and a 7½-hour day during the rest. There are also certain provisions in Belgium which provide that overtime may be worked at certain seasons of the year, provided that a corresponding number of hours are deducted from normal hours throughout the rest of the year. Thus 80 hours' overtime may be worked in aerated water factories between 1 May and 30 September, provided a maximum 10-hour day is observed and hours of work reduced to 7 hours a day between 15 November and 15 February. In the manufacture of guns and rifles by hand, 150 hours' overtime may be worked between 1 April and 30 September and these must be deducted during the remaining period. In the case of employees of travel agents, other than the office staff, they may work 9 hours during July and September and 7½ hours in October, November, December, January and March, the 8-hour day being maintained for the rest of the year. In all the above cases, the daily limit may be extended by one hour to allow for a Saturday half holiday.

In *Great Britain* the collective agreements in the building industry for England and Wales provide for alternative systems of 44 hours throughout the year or for 46½ hours in summer and 44 hours during the rest of the year, with an 8-hour day. The agreement in Scotland limits hours in December and January to 7½ hours a day and 41½ for the week and for the rest of the year, to 8 a day and 44 a week.

In the civil engineering construction industry, hours are fixed at $44\frac{1}{2}$ a week and 8 a day for one-third of the year, and at $49\frac{1}{2}$ a week and 9 a day for two thirds of the year. In the furniture industry in Leicester, weekly hours are $46\frac{1}{2}$ in summer and 44 for the rest of the year; for blind makers in London, the limits are 42 hours from November to February, 50 hours from March to July and 48 hours from August to October.

In *Luxemburg* in the building industry, 4 different periods are provided for: (a) 10 hours from 1 April to 15 October, (b) 8 hours from 16 October to 30 November, (c) 7 hours during February and (d) 9 hours during March.

In *New Zealand* the award for the aerated water trade in the Christchurch district provides for 44 hours during the period from 1 November to 30 April and 36 hours for the period from 1 May to 31 October, thus averaging 40 hours a week. In the case of the fruit preserving industry and the manufacture of aerated waters in the district of Wellington, the hours of work are fixed at 44 hours during the summer from 1 November to 30 April, and at 40 hours during the rest of the year. In the clothing industry in the districts of Otago and Southland, hours are fixed at 40 during the first nine months of the year and 44 in the last quarter. In the manufacture of butter and cheese, the hours vary from 38 to 52 a week according to the season.

In *Poland* workers engaged in road mending have a 10-hour day and a 60-hour week in summer and a 6-hour day and a 36-hour week in winter.

In the *U.S.S.R.* an eight-hour day instead of a seven-hour day is authorised in the case of seasonal work, the carrying on of which is dependent on natural and climatic conditions, and which is possible only during a season not exceeding six months a year.

§ 3. — Limitation of Hours for Certain Categories of Commercial Undertakings

In the following section an examination is made of the national regulations limiting hours in certain categories of commercial undertakings which have not been covered in the analyses of the limitations placed on work in a single shift: shops; hotels, restaurants and similar establishments; hospitals and other institutions for the care of the sick; and theatres and other places of amusement. Each of these four categories of undertakings are dealt with separately in this Report.

1. SHOPS

A variety of methods have been employed to limit the hours of work of employees in shops in order to take account of the nature of the work, both of the employees concerned and of the establishments covered. Hours of work of employees may be limited directly through fixing the normal working hours permitted, or indirectly through determining the hours that an establishment may be open to the public or for the transaction of business of any kind. The nature of the work in shops may vary considerably, not only from that of commerce in general, but also in accordance with the size of the shops and the product sold. Some national regulations as, for example, in *Belgium, Chile, France, Italy*, etc., provide for hours of duty for employees in shops whose work is either intermittent or consists partly of periods of actual work and partly of periods of waiting, prepared to serve a customer. These hours are frequently longer than the normal hours of work provisions found in the regulations applying to other categories of workers. Furthermore, certain national regulations either exempt such employees entirely from the regulations, as is the case in *Sweden*, or make provision, as is the case in *Australia, Austria, France, Greece*, etc., for hours longer than the normal ones for certain categories of shops, such as small food shops, butchers' and bakers' shops, and shops in railway stations selling tobacco, books, newspapers, etc., and more frequently for chemists' shops or pharmacies.

As has been indicated in the preceding chapter, in some countries employees in shops are covered by general hours of work legislation applying to industry and commerce or to commerce in particular; in other countries, all categories of shop employees are covered by special hours of work regulations; in still others the hours of work of employees in certain categories of shops are specially regulated. It should be noted that while in a large number of cases shop employees come under the general hours of work provisions of the regulations, or under special provisions either fixing longer normal hours for certain categories of workers or for certain shops, still other regulations permit permanent exceptions or extensions of hours, which will be dealt with separately in the next chapter.

An indirect method of limiting hours of work of shop employees is found in many regulations through the determination of the hours that shops may be open to the public. While in some instances, such as certain shops in *Denmark, Greece, Ireland*, and for most shops in *Sweden*, special shop closing regulations may furnish the

only limitation upon hours, more frequently these regulations, as for example in *Australia, Cuba, Finland, the Union of South Africa, and Yugoslavia*, merely furnish an additional restriction, since the employer may not in any case extend the hours of work of employees beyond the normal limits fixed for working hours. The hours of work of the employees do not necessarily coincide with the hours that a shop may remain open to the public; in cases where the work is arranged to provide for overlapping schedules of hours, the working hours of the individual employees may be shorter than the shop hours. Some regulations, as for example the *Austrian, German and Polish* regulations, permit customers on the premises to be served after normal hours; some regulations provide that employees may not remain in the shop outside of regulation shop hours, while others permit work for a short time during the period when the doors are closed to the public. It is also possible for shop closing legislation to give no indication as to its relation to the hours of the employees. The application of these regulations frequently varies according to the size of the shop or the nature of the product sold.

Other indirect limitations placed on the hours of work of shop employees are furnished by regulations determining the total length of the working day or the total period over which the working hours of an employee may be spread, as for example in *Australia, France* and the *Union of South Africa*. Still other regulations as, for example, those covering certain categories of shops in *Greece*, determine the minimum period of unbroken rest between daily hours of employment.

These various indirect methods of regulating hours of work only affect the normal daily or weekly hours of the employees in shops where they constitute the only limit fixed upon hours of work. In view of the wide divergencies in methods and effectiveness as well as in the scope of the restrictions fixed by such regulations, no attempt to take them into account will be made in the following analysis of the limitations fixed on hours of work of shop employees. However, some examples will be given in the summary of the daily limits of hours of work in shops of provisions concerning the maximum spread of the hours permitted.

Employees in shops are limited by the normal hours of work provisions applying to other categories of workers in *Argentina, Australia* (all employees in Western Australia and certain categories of employees in other states), *Brazil* (except for certain shops), *Bulgaria* (except for certain excluded categories), *Canada* (Alberta,

British Columbia—except for certain shops—and Manitoba), *Chile, Cuba, Czechoslovakia, Egypt, Finland, France* (other than food shops), *Germany, Italy* (in towns with a population of more than 50,000), *Latvia, Lithuania, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Switzerland* (certain cantons), *Uruguay, U.S.S.R., United States* (North Carolina and Pennsylvania), *Venezuela* and *Yugoslavia*.

In some cases in this group, as will be seen below in the analysis of the hours provisions, daily hours longer than the normal are permitted if the normal weekly limitation is not exceeded. It should also be noted that these normal hours provisions do not necessarily cover all shop employees or all shops in the countries concerned.

Special provisions covering either all workers or certain categories of workers, and all or certain shops, limit the hours of work or the hours of duty in *Australia* (certain states), *Austria, Belgium, Brazil, Canada* (British Columbia, Ontario, Quebec and Saskatchewan), *Chile, Czechoslovakia, Denmark, Estonia, France* (food shops), *Great Britain, Greece, Italy* (certain categories of workers or establishments), *Norway* and the *United States*. It should be noted further, as has been indicated in the previous chapter, that permissive legislation makes possible the limitation of the hours of work of shop employees by special regulations, as in *Rumania, Spain* (in Catalonia), and *Turkey*, where only wholesale trade is at present regulated, but where bakers' shops and retail trade are to be regulated by later special regulations.

In the following summary, no distinction will be made as to whether shop employees' hours are fixed by general or special provisions, nor whether they come under general or special regulations, but as far as possible indications will be given of the scope of the restrictions enumerated.

(a) *Daily Limitation*

Daily limitations varying from 7 to 12 hours per day are fixed for employees in shops either in addition to or in place of weekly limitation. In a number of cases, particularly where shops come under general hours of work provisions setting a weekly limitation, a daily limit, as for example 8 hours, is established as the normal, but provision is made that this limit may be exceeded, usually by one hour, permitting an uneven distribution of hours over the different days of the week, in order to secure one or more shorter working days or free days. In the following summary the regulations will

be classified according to the normal daily limit and an indication given of the amount that these limits may be extended for this purpose.

(i) *Less than 8 Hours per Day*

In *Argentina*, *Brazil* and *Mexico* hours of work for employees in shops are fixed at 7 for work at night. In *Cuba* in order to increase employment special permission was given to commercial establishments in towns having more than 20,000 inhabitants to remain open from 6 p.m. to midnight. For these 6 hours worked at night a separate shift of employees receive 8 hours' pay for 6 hours' work.

In *France* employees in retail shops, other than foodshops, in towns of more than 10,000 inhabitants, may if hours are distributed unevenly over $5\frac{1}{2}$ days, work up to a maximum of 7 hours and 30 minutes per day. If hours are distributed over 5 days, the daily limits may reach 8. Food-shop employees, engaged in the manufacture or transformation of food products may work 6 hours and 40 minutes on 6 days of the week, or longer hours, not exceeding a maximum of 8, distributed over $5\frac{1}{2}$ days in the week, or 8 hours on 5 days of the week. Employees engaged in the sale of foodstuffs working in establishments where the weekly rest day is taken in rotation, work 7 hours and 40 minutes on 6 days per week. Similarly all shop employees in towns of less than 10,000 inhabitants work 7 hours and 40 minutes on 6 days per week. In addition, in *France*, provisions concerning span of work further restrict the distribution of the hours throughout the day and require that the work be carried on in a period varying between 10 hours and $12\frac{1}{2}$ in accordance with the provisions concerning daily rest periods.

(ii) *8 Hours per Day*

In *Argentina* the general hours of work provisions covering shops establish an 8-hour day.

In *Australia* (in Queensland) awards, covering clerks and switchboard attendants in exempted shops and shop assistants in the Southern division, provide for an 8-hour day in addition to a weekly limitation.

In *Brazil* a strict limitation of 8 hours for day work is placed on barbers' and hairdressers' shops and similar establishments. In rural districts, however, these employees are exempted from the daily limitation on the basis of intermittent work. In chemists' shops and commercial establishments in general an 8-hour daily limitation

is fixed but this limit may be raised to 10 hours if the weekly hours are distributed unevenly over the week.

In *Bulgaria* those shops coming under a weekly limitation are also subject to a daily limitation of 8 hours per day. However, on Saturday or on the day before a public holiday a 9-hour day may be worked.

In *Canada*, in the province of British Columbia, the Hours of Work Act in addition to a weekly limitation provides for an 8-hour day.

In *Chile* wage-earning and salaried employees ordinarily work an 8-hour day which may be extended to 9 hours. However, hairdressers' assistants, whose work comes under the category of intermittent occupations, are permitted a 12-hour day and are not subject to any weekly limitation.

In *Cuba* with the exception of the special night shift discussed above, an 8-hour day applies to all shops coming under the Hours of Work Decree.

In *Czechoslovakia* an 8-hour day, which may be extended to 9, is added to a 48-hour weekly limitation.

In *Finland* a daily limitation of 8 hours, which may be extended to 9, provided that the weekly limitation is not exceeded, applies to the shops covered by the legislation.

In *France*, as indicated below, employees in shops subject to a 40-hour week limitation may work 8 hours if distributed over 5 days of the week. The same daily limit applies in such cases also to employees in retail shops other than food shops in towns of more than 10,000 inhabitants.

In *Germany* salaried employees in commercial undertakings, including shops, are covered by the Hours of Work Order setting a maximum 8-hour day. This daily limit may be prolonged to compensate for a reduction of hours on another day in the week, but a 10-hour maximum may not be exceeded. Collective rules embody these provisions for shop assistants, for instance in East Prussia and Westphalia.

In *Italy* the shop employees coming under the 48-hour limitation discussed below are also subject to an 8-hour daily limit which may be extended to 9.

In *Latvia* a similar daily limitation is added to the weekly.

In *Mexico* wage earners in shops are covered by a daily limit of 8 hours.

In *New Zealand* the Shops and Offices Amendment Act provides

for an 8-hour day except for one day per week on which 11 hours may be worked.

In *Norway* a daily 8-hour limit, which may be extended to 9, is applied to shops coming under the general hours of work provisions; those employees whose occupation consists largely of mere time on duty may be employed up to 10 hours. Customers in shops may be served for an extra half hour beyond the normal daily limitation but this period may not exceed 9½ hours.

In *Poland* the general limitation applying an 8-hour day and a 48-hour week covers shops.

In *Portugal* shop employees come under the general 8-hour per day limit.

In *Spain* the 1931 Decree, establishing an 8-hour day which may be extended under certain conditions to 9, covers shop employees. Further, joint board regulations for commercial establishments fix specified time schedules in the provinces of Guipuzcoa and Murcia in accordance with the Hours of Work Decree.

In the *U.S.S.R.* salaried employees in shops, co-operative shops and offices of co-operatives owning only a single shop work an 8-hour day.

In the *United States of America* an 8-hour day is provided in retail stores in cities of 2,500 or over in Montana. In Pennsylvania the 8-hour limit found in the general law applies to shop employees. Further, an 8-hour day is provided in the majority of collective agreements covering the retail trade.

In *Venezuela* the salaried and wage-earning employees in shops are subject to an 8-hour day besides the weekly limitation. As in other similar cases the 8-hour day may be extended to 9.

(iii) *More than 8 Hours per Day*

In *Australia*, regulations fix such limits in Queensland, South Australia, Tasmania, Victoria, and Western Australia. In Queensland employees in shops other than confectioneries, fish and oyster shops, fruit, vegetables and temperance beverage shops, tobacconists, booksellers, newsagents and railway bookstalls, bread and biscuit shops, undertakers' shops, licensed sellers of intoxicating liquors, pawnbrokers, and chemists' and druggists' shops, are subject to a 9½ hour daily limit, which on one day of the week may be extended to 11 hours. Employees in the shops exempted from the 9½ hour daily limit work a 10-hour day. In addition, a provision concerning span of hours requires that these

hours be worked during a period of 14 consecutive hours. Women and young persons in shops coming under the Tasmanian Factories Act, and all employees in most shops in Victoria work a 9-hour day with the exception of one day a week on which hours may be extended to 12¹. Further, in South Australia an award covering assistants in drapery, book and stationery shops provides for an 8¾ hours daily limitation except for one day in the week, when hours may be extended to 10¾. In Western Australia, where awards do not contain a direct limitation, a provision requires that hours be worked over a period of 9 hours and 40 minutes. Also women and young persons are limited by law to an 8¾ hour day except on one day when hours may be extended to 9½.

In *Belgium*, a 9-hour limit is applied in addition to the weekly limitation.

In *Canada*, in Alberta, the Hours of Work Act provides for a 9-hour day. In Ontario in addition to the weekly limitation, women may only work a 10-hour day.

In *Chile*, as has already been indicated above, for employees coming under the intermittent class a 12-hour day is permitted.

In *Egypt* the general legislation applying the 9-hour day to women covers shops.

In *France* a 9-hour day is fixed in addition to the weekly limitation for retail shops other than food shops in towns of less than 10,000 inhabitants and for food shops in which the weekly rest day is not taken by rotation.

In *Greece* a 9-hour limit is placed on commercial establishments in towns of over 10,000 inhabitants. This limit may be extended to towns of over 5,000. In summer the daily limit of 9 hours is extended to 9½. Hairdressers and grocers in towns of over 10,000 and salesmen in confectioneries and sweet shops in Athens, Piræus, and Salonica and in all towns of more than 25,000 population, shoe polishers in Athens and dairies in Athens, Piræus and Salonica, Volo and Patras are subject to a daily limit of 10 hours. In towns of less than 10,000 inhabitants, hours of work are limited only indirectly by minimum rest periods providing daily working hours of 13 in summer and 13½ in winter.

In *Lithuania* shops covered by the general commercial regulations work a 10-hour day.

In the *Netherlands* employees in shops generally work a 9½-hour

¹ When a public holiday occurs during the week hours may be extended to 12 on two days in the week. For discussion of this provision, see the following section concerning making up of lost time.

day except on Saturdays when an 11-hour day is permitted. In pharmacies employees work an 8½-hour day except persons in charge of preparing prescriptions, who may work a 10-hour day.

In *Switzerland* in Ticino, the shops discussed below as being subject to the weekly limitation, are subject to a 10-hour daily limitation. In Basle Town bakers, confectioners, hairdressers, shop assistants, etc., are subject to a 9½-hour daily limitation, while the staff of chemists' shops may work a 10-hour day.

In the *Union of South Africa* wage determinations vary the hours of work, as for example, one determination applicable to commercial distributive trades in Kimberley provides for a 9⅓-hour day one day a week, an 8⅓-hour day 4 days a week, and a 5⅓-hour day one day a week. In the Cape of Good Hope, the Shops Ordinance provides for a 9-hour day except for one day in which 11 hours may be worked. In the Transvaal the Shops Ordinance provides for an 8½ hour day except on Saturday when 9 hours may be worked.

In the *United States* a few collective agreements provide for daily hours longer than 8 per day. In North Carolina a general limit of 10 hours per day covers shops employing more than 8 persons.

In *Uruguay* employees in commercial establishments, including shops, work a 9-hour day.

In *Yugoslavia* a daily limitation of 10 hours is fixed for all employees in commercial and handicraft establishments. The 10 hours may be extended to 11 in order to permit a half-holiday.

(b) *Weekly Limitation*

(i) *Weekly Limitation to below 48 Hours*

In *Australia*, in New South Wales, women and young persons in shops work a 44-hour week. In Queensland an award applying to clerks and switchboard attendants in exempted shops ¹ provides for 44 hours per week. Another award establishes the same limitation for shop assistants in the Southern Division. In Victoria a commerce award covering clerks in retail shops provides for a weekly limitation of 46 hours per week. An award covering employees in drapers and men's clothing establishments permits

¹ Exempted shops are those listed in the Factories and Shops Act, as follows: confectioners, fish and oyster shops, fruit vegetable and temperance beverage shops, tobacconists, booksellers, newsagents, railway bookstalls, bread and biscuit shops, undertakers' establishments, licensed sellers of intoxicating liquors and pawnbrokers with licences issued under the Act of 1849.

(ii) *Weekly Limitation to 48 Hours*

In *Argentina* the general legislation establishing a 48-hour week includes shops.

In *Australia* a 48-hour limit applies in South Australia, Victoria, and Western Australia. In South Australia awards covering assistants in drapery, boot, book and stationery shops and grocers' assistants, establish a 48-hour week. In Victoria an award covering employees in grocers' shops fixes a limitation of 48 hours; the same limitation is fixed for employees in certain other categories of shops. The Shops and Offices Act of Western Australia sets a 48-hour limit for male shop employees. An award in Western Australia contains the same limitation for the hours of male shop assistants, storemen, and bakers in retail shops.

In *Austria* a 48-hour week is provided for establishments engaged in the retail sale of goods other than food stuffs; for flower shops and for hairdressers' and barbers' establishments in towns and industrial districts.

In *Belgium* in retail shops employing more than three persons, a 48-hour week is established. However, as will be seen below, if Sunday is worked the 48-hour week may be extended to 52 hours.

In *Brazil* commercial establishments in general, including shops, work a 48-hour week, with the exception of barbers', hairdressers' and similar establishments, which are only subject to a daily limitation.

In *Bulgaria* a 48-hour weekly limitation applies to all shops in towns with over 10,000 inhabitants. Furthermore, permissive legislation makes possible the exclusion until further notice of certain categories of shops, such as handicraft workshops and tobacco and newspaper establishments in railway stations. Local authorities may adopt regulations limiting hours of work for towns of less than 10,000 inhabitants.

In *Canada*, in British Columbia, the general Hours of Work Act which covers shops provides for a 48-hour week. Furthermore, the Minimum Wage Act of Manitoba establishing the same limitation includes shops.

In *Chile* the 48-hour week applies to both wage-earning and salaried employees with the exception of hairdressers' assistants, who, as stated above, are exempted from the weekly limitation because of the intermittent nature of their duties.

In *Cuba* retail shops come under the hours of work regulations establishing a 48-hour week.

In *Czechoslovakia* the general legislation, which includes shops, establishes a 48-hour week.

In *Germany* collective rules limit hours in shops in East Prussia to 48 a week or 96 in two weeks.

In *Great Britain* agreements concluded between the National Union of Distributive and Allied Workers and co-operative societies usually apply a 48-hour week, with the exception of the special districts discussed above.

In *Italy* in all cases not covered by the agreements discussed above, a general 48-hour week is in effect except for those occupations which are defined in a schedule as requiring only intermittent work, or mere being in attendance or watching, in which case the limitation of hours of work does not apply. This schedule has been applied to all barbers' establishments in towns of less than 100,000 inhabitants, to all manicurists and some hairdressers, and to shop assistants in towns with a population of less than 50,000. If, however, the competent authority determines that the work of shop assistants in towns of less than 50,000 inhabitants, or hairdressers and barbers in towns of less than 100,000 inhabitants, is declared to be actual work, and not intermittent, the normal 48-hour week applies.

In *Latvia* a 48-hour week is established by the general provisions which cover shops and by special provisions covering butchers, bakers, hairdressers, provision shops, etc.

In *Lithuania* food shops are excluded from the 48-hour weekly limitation fixed for commercial establishments and other shops.

In *Mexico* the 48-hour limit which is implied in the general legislation applies to shops.

In the *Netherlands* the 48-hour week is applied by special Act to employees in chemists' shops.

In *Norway* the general weekly limitation of 48 hours applies to shop assistants, with the exception of bakers, who come under a special daily provision.

The 48-hour weekly limitation also applies to shops in *Poland*.

In *Switzerland*, in the Canton of Valais, shops employing 5 or more persons are subject to a 48-hour limitation.

In the *Union of South Africa* a 48-hour week is sometimes established by wage determination, as, for example, a determination applicable to the commercial distributive trade in Kimberley, which includes in its scope all shop assistants. In Natal and in the Transvaal ordinances apply a 48-hour week to shop employees. A further limitation is added in Natal, where no employee may be

employed more than one hour beyond the hours fixed for the opening and closing of shops.

In the *United States of America* a 48-hour week is applied in the State of Montana to retail stores in cities of 2,500 or more inhabitants. Further a number of agreements in the retail trade establish a 48-hour week.

(iii) *Weekly Limitation above 48 Hours*

In *Australia* a 52-hour week is established in Tasmania for women and young persons in shops coming under the Factories Act. In Queensland a 53-hour week is established for all employees, with the exception of butchers' shops, chemists' and druggists' shops which are subject to a 60-hour limitation. In Victoria a 51-hour week has been established by award for stablemen employed by grocers' establishments. In confectionery shops and pastry shops, bread shops, fish or oyster shops, flower shops, fruit and vegetable shops, booksellers' and newsagents' shops and cooked meat shops, female employees work 56 hours and male employees 58; a 53-hour week is applied to other shops.

In *Austria* a 54-hour week has been established for shops engaged in retail sale of food stuffs other than those in pleasure, health and tourist resorts of less than 6,000 inhabitants. In the latter case a 60-hour week is in effect, but all employees working more than 54 hours must be paid at overtime rates. Hairdressers' and barbers' establishments not found in towns or industrial districts may work 54 hours a week if Sunday work is authorised in the locality. A 60-hour week is applied to employees engaged mainly in the sale of goods in butchers' shops. However, a 48-hour week is applied to other employees in these shops.

In *Belgium* all butchers work a 52-hour week. In retail shops employing more than 3 persons, if Sunday is worked, the normal 48-hour limitation may be extended to 52 hours. All retail shops employing less than 3 persons may work a 54-hour week and in this case, if Sunday is worked, the hours may be extended to 58. Pastrycooks come under similar limitations to those applying to retail shops employing less than 3 persons.

In *Canada*, in the province of Alberta, the general limitation of a 54-hour week applied by the Hours of Work Act covers shops. In Ontario a special provision for men employed in bakers' shops, occurring in the Factories, Shops and Offices Act, applies the 56-hour week, while all women in all shops are limited by the 60-hour general limitation. In Quebec an order of the Fair Wages Board

applying to all employees not covered by the Workmen's Wages Act provides that overtime rates shall be paid to persons working more than 54 hours per week in retail establishments. In Saskatchewan the Minimum Wage Act, which is especially applied to shops, limits hours to 57 per week.

In *Denmark* a certain number of agreements of a limited scope set a weekly limitation for shops, varying from 48 to 59½ hours per week.

In the *Netherlands* for work in shops in general a 53-hour week applies. A 55-hour week applies to persons in charge of preparing prescriptions in chemists' shops.

In *Switzerland*, in the Canton of Ticino, a 54-hour week applies to bakers, confectioners, butchers, pork butchers, tripe butchers, hairdressers, shop assistants in chemists' shops and retail establishments. A 54-hour week also applies to employees in pharmacies in the Canton of Basle Town. In Valais, for shops employing less than 5 persons a 55-hour week is in effect.

In the *Union of South Africa*, in the Cape of Good Hope, an Ordinance applies a 52-hour week to all shops.

In the *United States of America*, in the State of New York, hours of work are limited for employees in pharmacies and drug stores to 70 per week. In North Carolina, the general 55-hour week limit applies in shops employing more than 8 persons. A number of collective agreements affecting the retail trade limit hours, varying from 40 to 63. The range of limitations set in agreements applying to butchers varies from 48 to 74 hours per week.

In *Yugoslavia* hours of work for employees in commerce establishments are limited to 60 per week.

(c) *Limitation of Hours over Periods exceeding One Week*

A small number of regulations governing hours of work in shops provide special regulations permitting the limitation to be calculated over a period exceeding the week.

In *Belgium* an average limit of 48 hours is fixed for pastrycooks in the city of Bruges and on the coast. No limit is fixed to the period over which the average may be calculated. However, the condition is made that daily limits may not exceed 9 hours per day from Easter until 31 July and from 1 to 30 September. A 10-hour day is permitted in August. If a weekly half-holiday is granted the normal hours may be increased by one hour per day.

In *Czechoslovakia* for public chemists and chemists attached to

other establishments hours are limited to 192 calculated over a period of 4 weeks. However, the 8-hour day may not be exceeded:

In *Estonia* chemist shops in towns and boroughs working in the interest of public health may work 200 hours calculated over a period of one month.

In *France*, as has already been indicated, hours of work in retail shops other than food shops, in towns of 10,000 inhabitants or more, may be determined by fixing a limit of 80 hours distributed over 2 weeks.

In *Germany* collective rules covering commercial employees in East Prussia and retail trade in Westphalia provide for the limitation of hours to 96 in two weeks; while the 8-hour day is the normal limit it may be extended in Westphalia in order to cover the hours lost on a half-holiday or shorter day. However, a 10-hour maximum may not be exceeded nor a 54-hour week.

In the *United States*, in California, hours of work for drug clerks shall be 9 per day or 108 calculated over two weeks. In addition there shall not be more than 13 days of work in two consecutive weeks. In Colorado in retail drug and medicine stores hours shall be fixed at 9 per day or 108 in two weeks.

2. HOTELS, RESTAURANTS AND SIMILAR ESTABLISHMENTS

The limitation of hours of work for persons employed in hotels, restaurants and similar establishments gives rise to problems differing from those of industry and commerce in general. On the one hand, it is usually necessary to enable these establishments to operate throughout the day and night but, on the other hand, the work of a large number of the employees is often of an intermittent character or includes work requiring less constant attention or consisting largely of periods of watching. In order to meet the special needs of the establishments concerned, many regulations provide for shift operation and some regulations also provide for longer hours of attendance or duty, which are considered equal to hours of active work in industry and commerce in general, either for all employees in these establishments or for those whose work is largely intermittent or of a character which may be assimilated to intermittent work. Still other regulations exempt entirely employees of hotels, restaurants and similar establishments from the provisions governing hours of work or provide for exceptional extensions or additional overtime for these establishments or employees. Thus hours of work of employees in these establish-

ments may be limited by the normal hours of work provisions of general regulations or by special provisions found in regulations of either broad or limited scope.

Hotels, restaurants and similar establishments are covered by the normal hours provisions found in the regulations of *Argentina*, *Australia* (Western Australia), *Belgium* (except for hotels depending upon seasonal activities), *Bulgaria*, *Canada* (Provinces of Alberta, British Columbia and Saskatchewan), *Czechoslovakia*, *Egypt*, *Finland*, *Germany* (the Hours of Work Order), *Latvia*, *Mexico*, *New Zealand*, *Poland*, *South Africa* (Cape of Good Hope), *Spain*, *U.S.S.R.*, the *United States of America* (State of North Carolina), *Uruguay* and *Yugoslavia*.

Further, special provisions regulating the hours of work of either all or part of the employees in the establishments under consideration are also found in the regulation of *Australia* (States of Queensland, Victoria and Western Australia), *Austria*, *Belgium* (for certain employees in hotels), *Brazil*, *Chile*, *Cuba*, *France*, *Germany* (by collective rules), *Luxemburg* (for salaried employees only), *New Zealand* (by award), *Portugal*, *South Africa* (by award), *Spain* (for some employees), *Switzerland*, the *United States of America*, *Uruguay* (for dancing cafés and similar establishments) and *Venezuela*¹.

In *Italy*, the *Netherlands*, *Portugal* (for hotels only) and *Sweden*, legislation exempts hotels, restaurants and similar establishments from the regular hours of work provisions and provides that their hours shall be determined by special permissive regulations. Thus in *Italy* the schedule specifying the occupations which require only intermittent work or mere being in attendance or watching, and which are thus exempted from the normal limitation on hours of work, includes "waiters, attendants and kitchen staff in hotels, restaurants and all places of public refreshment in general, and in railway sleeping and restaurant cars and steamships". However, further provision is made that where, in the opinion of the Inspectorate of Industry and Labour, owing to special circumstances the occupations are not intermittent in character, these exemptions shall not apply. The Decree authorises the competent authority

¹ The 1936 Labour Act of Venezuela fixes the hours of work for salaried employees in commercial undertakings and offices at 44 in the week; 48 hours per week are permitted for all other undertakings, businesses and establishments. A further provision exempts persons employed on work which is intermittent or requires mere presence on duty from either of these provisions and fixes instead a daily limitation of 12 hours a day, including a break of one hour.

to lay down special hours regulations for the exempted employees but apparently there are no regulations, at present, specifying the hours to be worked. In the *Netherlands* legislation provides that regulations may set a maximum of 10 hours but not less than 8½ hours a day for hotels and cafés. Similarly, the weekly limit that may be prescribed by the regulations may not be less than 48 hours. A 12-hour day may be provided for watchmen and supervisory staff, with no weekly limitation. These regulations have not, apparently, been established. Similarly, in *Portugal* the legislation provides that hours of work in hotels shall be regulated by an Order, but no Order appears to have been adopted. In *Sweden* work in hotels, restaurants and cafés connected with the actual service of the public is excluded from the hours provisions. For other work in these establishments the Crown, on recommendation of the Labour Council or after consultation with it, may prescribe a limitation of hours different from the 48 per week and 8 per day (or 9, if there is uneven distribution of hours over the week) which is regularly applied.

It is of interest to note that the special regulations of *Austria*, *Chile*, *France*, and *Italy*, which provide for longer hours of work in hotels, explain these provisions on the basis of the intermittent character of the work or the fact that the hours include periods of mere attendance or duty.

In the following summary, limitations on hours of work in hotels, restaurants and similar establishments are classified according to the hours provided, without distinction as to whether the provisions are found in general or special regulations.

(a) *Daily Limitation*

In some cases the daily limitation of hours of work of hotel employees is the only limitation applying, and in others the daily limitation is in addition to a weekly limitation, described below.

(i) *Daily Limitation to less than 8 Hours*

In *Brazil*, *Mexico* and the *U.S.S.R.*, hours are limited to 7 per day. In *Brazil* and *Mexico*, the limitation only applies to employees working on a night shift, as the day shift works 8 per day. In *Uruguay*, in dancing cafés, cabarets and night clubs, hours vary between 5¼ and 6¼.

(ii) *Daily Limitation to 8 Hours*

While a large number of regulations fix 8 hours as the daily limitation, it should be noted that where a weekly limitation is

also in effect, regulations ordinarily provide that the 8 hours may be extended to 9 or 10 in order to permit a weekly half holiday or to make possible a less rigid distribution of hours throughout the week. This is the case in *Argentina*, in *Belgium*, in *Bulgaria*, in *Canada* (in the province of British Columbia), in *Czechoslovakia*, in *Germany*, in *Latvia*, in *Mexico*, in *Poland* and in *Uruguay*. A fixed 8-hour day also appears in some collective agreements affecting the hotel industry in the *United States*.

A certain number of countries not applying any weekly limitation fix daily hours at 8 per day. In *Chile* for persons in hotels whose work is continuous, hours are fixed at 8 per day. In *Cuba* the regulations provide that, although shifts may be arranged if necessary, the employees in hotels, restaurants, cafés, bars, taverns and cabarets work 8 hours per day. In *Finland* provision is made for 8 hours per day, with an additional limitation of 96 hours in two weeks for employees in inns, hotels and cafés. In *Luxemburg* salaried employees work an 8-hour day. In *Portugal* employees in cafés are limited to an 8-hour day. In *Spain* waiters, waitresses, general hands, pages, coffee waiters and employees who perform similar duties, cooks, pastry cooks, scullery boys and kitchen workers in inns, hotels, cafés, restaurants and public establishments, other than those discussed below under the 10-hour limitation, if not engaged exclusively on attending the employer, work an 8-hour day. In the city of Barcelona, joint labour regulations provide that the special needs of the industry must be taken into account, but that as a rule there shall be an 8-hour day.

(iii) *Daily Limitation above 8 Hours*

As has already been stated, the 8-hour limitation may frequently be raised to 9 under general regulations. A certain number of countries also fix a longer daily limitation for all workers in establishments dealt with here. In *Australia*, in Tasmania for women and young persons, in addition to the weekly limitation, a daily limitation of 9 hours is fixed, except that on one day per week hours may be extended to 12; in Western Australia for women and young persons the daily limitation is fixed at $8\frac{3}{4}$ hours except for one day per week, when it may reach $9\frac{1}{2}$. In *Canada*, in Alberta, the Hours of Work Act provides for a 9-hour day. In *Egypt* the general limitation of 9 hours per day for women covers employees in hotels and similar establishments. In *Germany* the collective rules for hotels and restaurants in Greater Berlin provide for an 8-hour day if a mid-day rest of 3 hours breaks

the day and a 9-hour limitation if the day is continuous. In the *Netherlands* the legislation provides that regulations may set daily limitations of not more than 10 and not less than 8 hours per day. In the *United States* a daily limitation of more than 8 hours per day is frequently found in the collective agreements covering hotels and restaurants.

A number of regulations fix a 10-hour day. This is the case in *Austria* for all hotels and restaurants and in *Belgium*, in bath and climatic resorts, from 1 June to 9 July and from 11 to 30 September; from 10 July to 10 September, 11 hours per day may be worked. In *Canada* in the province of Quebec employees in hotels, restaurants, etc. must, by order of the Fair Wages Board, be paid time and a half when more than 10 or less than 4 hours are worked per day. In *New Zealand* hotel employees may work a 10-hour day, although the 40 or 44 hours weekly limitation must be respected. In *Spain* waiters, waitresses and chambermaids in hotels and inns who are lodged therein, and whose work is restricted to attendance on customers or attending to the rooms, work a 10-hour day. In *Switzerland*, in Basle Town, cooks work a 10-hour day. In the *United States*, in North Carolina, a 10-hour daily limitation is stipulated, in addition to a 55-hour weekly limitation, and in New Mexico a 10-hour day is fixed for male employees in hotels, restaurants, cafés and eating houses. In *Yugoslavia* the general commercial regulations applying to hotels fix a 10-hour day.

In *Chile*, for persons performing duties which are of an intermittent nature, such as salaried hotel employees as well as cooks, and their assistants, dishwashers, waiters, barmen, stewards, messenger boys and other similar categories, a 12-hour limitation applies. Similarly, in *Switzerland*, in the cantons of Ticino and Basle Town, employees in hotels and restaurants work a 12-hour day.

In *Venezuela* persons engaged on intermittent work are subject to a 12-hour day.

(b) *Weekly Limitation*

(i) *Weekly Limitation to below 48 Hours*

The lowest weekly limitation concerning hotels is found in the regulations of *New Zealand*, according to which licensed hotel employees may work 40 hours per week and private hotel employees may work 44. New Zealand tea-room and restaurant employees also work 44 hours per week.

In *Uruguay* hours of work for employees in hotels are limited to 44 per week and one and a half free days must be provided.

In *Venezuela*, in so far as hotel employees come under the hours of work provisions for commercial establishments, they work a 44-hour week.

(ii) *Weekly Limitation to 48 Hours*

The larger number of provisions establish a limit of 48 hours per week. In *Argentina* hotels, restaurants, confectioners, cafés and bars are covered by the 48-hour limitation found in the general legislation. In *Australia*, in the State of Western Australia, a 48-hour week is in effect for restaurants, coffee palaces, boarding houses, refreshment shops and licensed premises such as hotels¹. In *Belgium* hotels, restaurants and public-houses in general come under the 48-hour limitation. However, in bath and climatic resorts which are affected by seasonal factors, the hours are varied according to the period of the year. In *Brazil* hotels, boarding houses and restaurants work a 48-hour week. In *Bulgaria*, as a result of a weekly rest provision, in addition to an 8-hour day a 48-hour limit applies. In *Canada*, in British Columbia, all employees are covered by the 48-hour limitation. In Quebec, employees doing domestic service in a hotel, restaurant, buffet, boarding house, soft drink parlour, terrace, café, club, curb service and all establishments of this kind come under the order of the Fair Wages Board providing, for a normal working week of 48 hours per week. In Saskatchewan the 48-hour week applies to women in hotels. In *Czechoslovakia*, *Latvia*, *Mexico* and *Poland*, the 48-hour limitation applies generally and thus affects hotels. In *Germany* collective regulations for hotels and restaurants of Greater Berlin provide that a 48-hour week may be worked if 3 hours mid-day rest are provided but, if it is not the case, 54 hours per week may be worked. In the *Union of South Africa* the 48-hour limitation applies to the tea-room, restaurant and catering trade in Johannesburg and the neighbourhood. In the *United States of America* a 48-hour week is the maximum provided in the majority of collective agreements covering hotels and restaurants, and by law in Pennsylvania.

(iii) *Weekly Limitation above 48 Hours*

In *Australia*, in the State of Queensland, restaurants and refreshment shops work a 53-hour week and hotel bars a 60-hour

¹ Hours are further limited to 44 per week for women and young persons in such establishments.

week. In Tasmania hours per week are 52 for women and young persons in hotels and restaurants. In Victoria men employed in hotels, restaurants, cafés, clubs, etc., work a 58-hour and women a 56-hour week. In *Austria* employees in hotels and restaurants work 60 hours per week. In *Belgium* employees in bath and climatic resorts, from 1 June to 9 July and from 10 to 30 September, work 52 hours a week while, from 11 July to 10 September, they work 60 hours a week. Employees in other than bath and climatic resorts, if receiving tips, work 54 hours per week and, if not receiving tips, work 50 hours per week. In *Canada*, in the Province of Alberta, a 54-hour weekly limitation applies. In *France*, in bath and climatic resorts, for five months of the year, if there is only one season, and twice for three months, if there are two seasons, cooks work 50 hours a week and other hotel employees work 56 hours per week. In other localities the hours of work of cooks are limited to 46 and others to 52 per week. In *Germany*, as has already been indicated, if the work is continuous in hotels hours are limited to 54 per week. In *Switzerland* employees in hotels, restaurants and cafés in Ticino, in hotels, pensions and restaurants in Valais, and all employees except cooks in hotels and restaurants in Basle Town, may work 60 hours per week. In the *Union of South Africa*, in the Cape of Good Hope, hours of work are 52 per week. In the *United States*, in the State of North Carolina, a 55-hour per week limitation applies to hotels; in New Mexico, hours for male employees in hotels, restaurants, cafés and eating houses are fixed at 70 per week. About one-fourth of the collective agreements in the United States covering hotels and restaurants provide for a 54-hour week. A few isolated agreements provide hours varying up to 60 hours per week. In *Yugoslavia* the general commercial regulations limiting hours of work to 60 per week apply to hotels.

3. HOSPITALS AND RELATED ESTABLISHMENTS

In order to fix limits upon the hours of work of persons employed in hospitals and other establishments for the treatment or care of the sick, infirm, destitute or mentally unfit, the special character of the work involved must be taken into consideration. It is evident that certain services in hospitals and similar establishments must either function continuously or be prepared to function at any time and that the hours of work of the staff must therefore be arranged so as to meet any contingency. But the continuous

operation of the establishment, as can be seen from the following analysis of national regulations, does not necessarily mean prolonged hours of actual work for the whole staff. Certain workers in hospitals carry on work that is not related to the service of the patients while others, attending patients or on call prepared to carry on such work, do not give prolonged or continuous attention to this work. Many national regulations meet the situation by providing different hours, usually defined as hours of duty or attendance, for the staff whose work is of this nature; in such cases, longer hours of service are considered equivalent to the normal hours of work provided for other categories of workers either in the same establishments or in industry and commerce in general. Although a small number of national regulations bring these establishments under the normal limitations placed upon hours of work in industry and commerce in general, a greater number of regulations—as has already been seen in the previous chapter—recognising the special nature of the establishments, have either provided longer hours for all or part of the employees covered, or have exempted these establishments from any limitation upon hours. Further, overtime provisions, which will be discussed in the next chapter, frequently enable hospital employees to work longer hours, either in accordance with an increased rate of pay or on the basis of the intermittent character of the work. In the following summary, no distinction will be made in regard to the scope of the regulations in which provisions are found covering hospitals and similar establishments, but indications will be given as to whether the employees come under the normal hours of work provisions of the regulations or under special hours of duty provisions, or whether they are subject to special exemptions or prolonged hours owing to the nature of their work.

Hospitals and related establishments are covered by the normal hours provisions of general regulations in *Argentina* (except for certain categories of workers), *Belgium*, *Bulgaria*, *Czechoslovakia*, *Luxemburg* (salaried employees), *Mexico*, *Norway* (for certain workers only), *Switzerland* (Canton of Ticino), and *Yugoslavia*. Special provisions fix limits on working hours for the whole or part of the staff of these establishments in *Argentina*, *Cuba*, *France*, *Germany*, the *Netherlands*, *Poland*, *Spain*, *Switzerland* (Cantons of Basle Town and Valais), the *U.S.S.R.* and the *U.S.A.* (States of New York and North Carolina). Furthermore, permissive regulations enable the competent authority either to exclude hospital employees from the hours provisions or to make special regulations

for such employees on the basis of the nature of their work, in *Brazil*, *Finland*, *Italy*, *Latvia* and *Norway*. Before summarising the hours limitations found in the first two groups of regulations, some more specific indications will be given of the provisions found in the permissive regulations.

In *Brazil* special regulations may be made to cover the staff of hospital employees. In *Finland* a provision in the 8-hour day law permits hospital employees to be excluded by a decision of the Council of State. Such decisions have been taken from year to year, including the year 1937. In *Italy* the staff of hospitals, lunatic asylums, sanatoria and nursing homes are exempted from the limitation of hours of work on the grounds that these occupations require only intermittent work or mere being in attendance or watching. However, in the case of persons employed as attendants in sick rooms, in wards for violent or dirty patients, in lunatic asylums, in isolation wards for delirious or serious cases, in hospitals in special departments for persons suffering from infectious or contagious diseases, and in general in all cases in which, in view of the special conditions in hospital work, the limitation of hours is considered necessary by the Inspector of Industry and Labour, the opinion of the provincial medical officer having first been obtained, the normal limits of hours—namely, 8 or 9 per day and 48 per week—shall be applied. Nevertheless, persons employed in health or sanitary services, dispensaries, public and medical consulting rooms and medical and poor relief centres, are entirely exempted from any limitation of hours of work. In *Latvia* provision is made in the Hours of Work Act that the hours of the domestic staff in hospitals shall be fixed by special Act. There is at present no special Act covering these employees. In *Norway* provision is made in the general hours of work law that if, on account of the nature of the establishment or work, the work of certain employees or classes of employees is interrupted by periods when there is little or no work to be done but it is impossible for the employees in question to leave the workplace, the normal hours of work of the employees in question may be extended to not more than 10 hours in the day. The Labour Council is authorised to determine which employees come under this provision for time on duty. The normal weekly hours of 48 per week may apply to the employees concerned.

In addition, in *Sweden*, although there is no legislation applying to hospitals, there is at the present time a tendency to limit hours by action of local authorities. A circular of January 1936 of the

Health Department requested the local authorities to attempt to secure, by regional or local agreements, a limitation of hours to 216 per four weeks.

(a) *Daily Limitation*

(i) *Daily Limitation to below 8 Hours*

The lowest limitation set on daily hours of staff in hospitals is found in the *U.S.S.R.*

Regulations issued in 1927 reducing hours as a result of the unhealthy nature of the work, divided such employees in four groups, limiting hours to 7 per day for disinfectors; to 6 per day for middle grade staff of sanatoria for the treatment of open tuberculosis, as well as sanatoria and hospitals for bedridden patients, for the lower staff of institutions treating open tuberculosis, of psychiatric establishments in contact with the patients, of the medical autopsy rooms, and mud and sulphur bath attendants; to 5 hours per day for doctors and dentists receiving patients in dispensaries, polyclinics, children's consulting offices, etc., for nurses receiving patients in dispensaries, for certain categories of veterinary work, for staff employed at trichinoscopy, and for certain mud bath attendants; to 4 hours a day for doctors and assistants engaged in autopsy work, if they work without interruption, for doctors in medical control associations and anatomic institutions and for all staff exposed to X-rays.

Subsequent regulations issued in 1931 determine the hours of work of all hospitals and similar establishments placed under the system of the uninterrupted week; these regulations fix the hours of work for certain categories of workers as follows: doctors—ordinarily at 6½ hours, but certain categories of doctors have hours reduced to 6, 5½ or 4; middle grade medical staff—ordinarily at 6½ hours for certain categories, reduced to 6, 5½ or 4 (middle grade staff in crèches work 7 hours per day); lower staff—normal day is 8, but reduced to 6, 5 and 4 according to the nature of the work; dentists working with electric drills at 5½ and foot drills at 5; certain veterinaries—normally at 6½ but sometimes reduced to 6, 5½ or 5; certain lower grade veterinaries at 6 or 5; certain pharmacists at 6½; disinfectors at 7.

It should be noted that the categories of workers whose hours are determined by the 1931 regulations must be considered along with the hours set by the 1927 regulations.

(ii) *Daily Limitation to 8 Hours*

In addition to the weekly limitation of hours discussed above, an 8-hour limit ¹ is fixed in *Belgium, Bulgaria, Cuba, Czechoslovakia, Mexico, Norway* and *Spain*. In *Italy* it may be presumed that, in cases where the normal limitation of hours is in effect, the 8-hour day is applied. In the *U.S.S.R.* normal hours of work for the lower grade medical staff, the veterinary staff, and pharmacists, are fixed at 8, although as shown above shorter hours are provided when the above staff are employed in connection with certain types of work. In the *United States*, in the State of New York, certain employees in State hospitals, schools, prisons and similar institutions work 8 hours per day.

(iii) *Daily Limitation above 8 Hours*

In *Argentina* hospitals, nursing homes, sanatoria and related establishments to which the general legislation applies work a 9-hour day. Special categories of employees, including nurses, night watchmen and persons on general watching duty incidentally attending patients, and the kitchen staff, work a 10-hour day. In *Canada*, in Quebec, by order of the Fair Wages Board, nurses in clinics and laboratories other than public hospitals must be paid time and a half when working more than 9 or less than 4 hours in the day or for work on Sunday. In *France* the Decree covering establishments for the treatment of the sick and health service provides for a 9-hour day but at the same time makes possible an equal distribution of 45 hours over 5 or 6 days or an unequal distribution over 5½ days, or over two weeks with one full day's rest. In *Germany* the Order of 1924 covering the nursing staff of sanitary establishments also provides for a 10-hour day. The collective regulations covering private establishments for the treatment of the sick in Berlin provide a maximum 10-hour day. However, if a 10-hour day is worked, two hours' interval must be allowed within the day in addition to one hour for meals. This divided day is permitted for female technical assistants and men in the medical service, where necessary, but otherwise an 8 or 9-hour day is in force. In the *Netherlands*, a 10-hour day, in addition to a 55-hour week, is applied to all hospitals. Similarly, in *Poland* and in *Switzerland*, in the Canton of Valais, a 10-hour day is in effect in addition to a weekly limitation. In the Canton of Basle Town, persons employed in

¹ See general daily limitation of hours, listed above, in section 3, for discussion of extending 8-hour day to provide for shorter work-day or uneven distribution of hours in the week.

hospitals, nursing institutions and homes are exempted from the normal hours provision and a special provision requires an uninterrupted rest period of not less than 10 hours for these categories of employees. In the *United States*, in North Carolina, it is provided that in State hospitals, penitentiaries and corrective institutions, hours of work for all employees shall be 12 per day. In *Yugoslavia* the general legislation provides for a 9-hour day in addition to the weekly limitation.

(b) *Weekly Limitation of Hours*

(i) *Weekly Limitation to below 48 Hours*

In *Canada*, in Quebec, the Fair Wages Board order provides a time and a half pay for clinic attendants and nurses in clinics or laboratories other than those in public hospitals working more than 40 hours per week.

In *France*, a Decree provides that employees in establishments for the treatment of the sick, and health services, shall work 9 hours per day and 45 per week. Furthermore, arrangements regarding the distribution of these hours provides that the hours of work may be distributed equally over 5 or 6 days or unequally over 5½ days or over two weeks with one full day's rest.

In *Venezuela*, as has already been indicated, the 44-hour weekly limitation applying to commercial establishments determines the hours of those employees not subject to the 12-hour special provision.

(ii) *Weekly Limitation to 48 Hours*

In *Argentina* hospitals, nursing homes, sanatoria, lunatic asylums, convalescent homes and related establishments are covered by the general legislation providing for 48 hours per week. In *Belgium* the general Act of 1921 was extended by an Act of 1937 to the nursing staff of public and private establishments for the treatment of the sick and limits their weekly hours thereby to 48. In *Bulgaria* hospitals are excluded from hours of opening and closing of establishments on condition that an 8-hour day and 36-hour weekly rest be provided to employees. In *Czechoslovakia* the general limitation of 48 hours per week applies to private clinics and hospitals. In *Germany* technical assistants to the medical service and the office staff in the administrative service of hospitals work a 48-hour week, according to collective rules covering private establishments for the treatment of the sick in the city

of Berlin. In *Italy*, as has already been indicated, in a certain number of cases the Inspector of Industry and Labour may apply the normal limits of 48 hours per week. In *Mexico* and in *Norway* the normal limits of 48 hours per week are applied to the staff of hospitals. In *Spain* the normal hours of 48 per week may be applied to the staff of hospitals but it is also provided that for nurses and attendants in public hospitals, homes and lunatic asylums, by an agreement between the parties concerned, the 48-hour limit may be exceeded, provided that it is not extended beyond 60 for women and 72 for men.

(iii) *Weekly Limitation above 48 Hours*

In *Argentina* nurses, male or female, when not working in hospitals, are subject to a 70-hour week. Night-watchmen and other persons on general watching duty who nevertheless give incidental attendance to patients, are subject to a 60-hour week. The 60-hour week also applies to the kitchen staff in hospitals, but in this case time for meals is included in working hours. In *Cuba*, by a resolution, of September 1936 covering all establishments for the treatment of the sick, a 56-hour weekly limitation has been fixed. This, however, only applies when three shifts are worked in 24 hours; otherwise only the daily limitation of 8 per day is in effect¹. In *Germany*, according to an Order of 13 February 1924, the nursing staff of sanitary establishments are subject to a 60-hour weekly limitation. According to collective rules covering private establishments for the treatment of the sick in Berlin, a weekly limitation of 60 hours is fixed for nurses in the medical service and of 54 for men other than nurses or technical assistants. All employees in the household services work 60 hours as do the technical staff in the administrative service. In the *Netherlands*, by Order of 1928, hours of work in hospitals are limited to 55 per week. In *Poland* nurses in cure establishments and ward attendants whose work in connection with attendance on sick persons consists in watching and assisting the patients, work 60 hours per week. Such employees must be given the opportunity to take a meal during working hours. Further, the hours of work of all persons employed in curative institutions shall not exceed 60, while the Minister of Social Welfare, in agreement with the Ministers concerned, shall cause Orders to be made regulating the distribution

¹ The resolution of 23 September 1936 was valid for six months only and there is no evidence of its renewal.

of the hours of work of persons employed in these institutions. In *Switzerland*, in Valais, hospitals and sanatoria are permitted a 55-hour week. In the *United States of America*, in North Carolina, an 84-hour week is provided for employees in State hospitals, penitentiaries and corrective institutions. In *Yugoslavia*, where hospitals come under the regulation of general commercial establishments, a 54-hour week is prescribed.

4. THEATRES AND OTHER PLACES OF PUBLIC AMUSEMENT

The limitation of hours of work of employees in theatres, music halls, cinemas and other places of public amusement generally, whether indoor or outdoor, may, as has been indicated in the preceding chapter, be effected by general legislation or by special regulations. However, as has also been indicated, a certain number of national regulations have excluded these categories of establishments from any limitation of hours of employment. Although a few regulations provide special hours provisions for theatres and related establishments, the majority of the regulations concerned subject them to the normal hours of work provisions found in the general legislation. This is the case in *Austria, Belgium, Canada* (Manitoba and Quebec), *Cuba* (for cabarets), *Czechoslovakia, Egypt* (women), *France, Germany, Italy, New Zealand, Poland, Portugal, and Yugoslavia*. Special provisions concerning the hours of work of certain categories of employees in theatres and related undertakings are also found in the regulations of *Argentina, Austria, Brazil, Chile, Switzerland* (Basle Town), the *Union of Soviet Socialist Republics*, the *United States*, and *Uruguay*.

In the following analysis the regulations are summarised according to the daily and weekly limits placed on hours of employment and some indications are given as to the scope of the provisions.

(a) *Daily Limitation of Hours*

(i) *Daily Limitation to below 8 Hours*

In *Brazil* musicians are limited to 6 hours per day. Cinematographic operators and assistants may work 5 hours per day in the operator's cabin and 1 hour on cleaning the plant, arranging films, etc.

In the *U.S.S.R.* a 6-hour day is set for workers engaged in mainly artistic work in cinemas and theatres where a 6-day uninterrupted week is in force, and a 6½ hour limit applies to the

same categories of workers where a 5-day week is in effect. A 7-hour limit is fixed for persons having to perform mainly physical work in the theatrical and cinema industries, and a ½-hour rest is included in the 7-hour limit for office workers in these undertakings. A 7-hour limit also applies to various types of technical work in connection with the cinema.

In the *United States of America* a 6-hour day is fixed in most collective agreements covering motion picture machine operators.

(ii) *Daily Limitation to 8 Hours*

In *Austria* an 8-hour limitation is in effect for wage earners in undertakings for the presentation of public entertainments and exhibitions, and for all persons who render artistic services to a theatrical employer in one or more branches of the art (especially as performers, stage managers, readers of plays, conductors, musicians).

In *Cuba* an 8-hour daily limitation is set for cabarets.

In *Germany* the 8-hour normal work day established in the Hours of Work Order applies to theatres and related undertakings. Further, the collective rules covering these undertakings either specifically set an 8-hour limit or refer to the limit fixed in the general Order.

In *Portugal* the general 8-hour day limit applies to theatres and other places of amusement.

The general legislation of *Belgium, Czechoslovakia, Italy, Poland* and *Venezuela* (except in cases of intermittent work permitting an extension of hours to 12), establishes a daily limit of 8 hours. These daily limits may, however, as has been indicated above, be extended to permit an uneven distribution of hours over the week to secure, for example, a half holiday.

(iii) *Daily Limitation to above 8 Hours*

In *Argentina* daily hours for employees in cinemas, theatres and similar establishments in the capital and in the national territories are limited to 9. Actors, prompters and musicians have an indirect limitation on hours through the obligation on the employer to provide a 12-hour rest period. Similarly, a 12-hour rest period must be given to electricians, stage hands and similar employees, though this rest period may be reduced to 8 hours (not more than 10 times a month) where there is a change of programme.

In *Canada*, in Quebec, employees in a public hall, moving picture hall, theatre, dance hall, sports establishment or public meeting

place according to an order of the Fair Wages Board are paid time and a half for work beyond 10 hours a day or if less than 4 hours are worked a day.

In *Chile*, when the 48-hour weekly limitation is increased to 56, the 8-hour daily limitation may be increased to 9 hours and 20 minutes.

In *Egypt* the 9-hour daily limitation for women applies to the amusement undertakings.

In *Switzerland* (Basle Town) the staff of theatres may not work longer than 10 hours per day.

Similarly, in *Yugoslavia* the 10-hour daily limitation applicable to commercial undertakings covers theatres and related establishments.

(b) *Weekly Limitation of Hours*

(i) *Weekly Limitation to below 48 Hours*

In *Brazil* musicians work a 36-hour week.

In *France* the general 40-hour law covers employees in theatres, cinemas and similar establishments. A number of collective agreements, made binding in accordance with the law, provide that the 40-hour limitation may be averaged either over the duration of the period of engagement or the run of the theatrical performance.

In *New Zealand* places of amusement come under the general 40-hour week legislation; a number of awards covering different categories of workers in such undertakings as, for example, motion picture projectionists, fix a 40-hour week.

In the *United States* a 36-hour week is provided in the majority of collective agreements covering motion picture machine operation.

(ii) *Weekly Limitation to 48 Hours*

In *Argentina* workers in cinemas, theatres, etc., other than certain categories dealt with below, in the capital and in the national territories have hours limited to 48 per week by a 1935 Decree.

In *Belgium* theatres and similar undertakings are covered by the general legislation providing a 48-hour week.

In *Brazil* the general staff, artistic, technical and manual staff and those occupied in the sale of tickets, in theatres, cinemas, broadcasting stations, sport establishments, etc., work a 48-hour week.

Similarly, the 48-hour week is applied to these categories of workers in accordance with the general legislation of *Canada*

(Province of Manitoba and the Fair Wages Board order of Quebec referred to. above), *Czechoslovakia, Italy and Poland.*

In the *United States* a small proportion of the collective agreements covering motion picture machine operators provide weekly limitation up to 48 per week.

(iii) *Weekly Limitation above 48 Hours*

In *Austria* undertakings connected with public amusements and exhibitions are subject to a 56-hour weekly limitation.

In *Chile* the 48-hour week may be increased to 56 for salaried employees in theatres where, in the opinion of the General Labour Inspectorate, the business done during the day is obviously not great and where the salaried employees are obliged to be constantly at the service of the public.

In *Switzerland* (Basle Town) the staff of theatres may work 54 hours per week.

In *Yugoslavia* employees in the establishments concerned come under the general commercial regulations applying a 60-hour weekly limitation.

§ 4. — Limitation of Hours in Shifts in not necessarily Continuous Processes

1. NATURE OF THE PROBLEM

The limitation of hours of shift work in processes which are not necessarily continuous gives rise to the problem of ensuring that the technical or economic requirements of certain industries or activities may be met when the period within which work may be performed is restricted by regulations such as those affecting the employment of persons at night or on the weekly rest day.

The reasons for which shift work may be resorted to are partly technical and partly economic, and it is often difficult to dissociate the two elements.

On the technical side, a number of processes, such as for example certain processes in the chemical industry, require for their fulfilment an uninterrupted period considerably in excess of the usual working day. In some cases such work can be completed by a prolongation of the working day—for instance, from 8 to 10 hours—as is the case in the dyeing and bleaching industry or on occasions for work in foundries. The weekly limit is then not necessarily

changed. In other cases, however, if the duration of the process exceeds even a lengthened working day, recourse to shifts is necessary.

As regards the economic aspect, the working of shifts enables a period of operation or of business to exceed the hours of the persons employed therein. This enables overhead costs to be spread over a larger volume of output or of transactions. In the case of those activities such as motor repair workshops, service stations, shops, etc., which place certain services at the disposal of the public, the use of shifts enables the period during which the public can avail themselves of these services to be extended beyond the hours of work of the persons performing them.

A special regulation of shift work with the above purposes in view is, however, only necessary if there are special legislative obstacles to overcome or if it is deemed that the workers employed under such conditions require special protection. In many countries no such special measures have been deemed necessary and shifts may be worked whenever the employer so desires without any special formalities. The limits of hours of work imposed by law are in such cases the same as for work in a single shift, and these limits have been analysed above.

Where, however, in the interests of the workers special regulations restrict or prohibit the employment of persons at night, on weekly rest days or on a weekly half holiday, the removal of such restrictions may be required in order to enable shifts to be worked. As the regulations imposing such restrictions are not analysed in detail in this Report, only a few examples will be given of the conditions in which they are removed.

In some countries—e.g. *Great Britain* (as far as women in factories are concerned), *Ireland* and the *Netherlands*, work is only normally permitted between specified hours; namely, from 8 a.m. to 6 p.m. in *Great Britain*; up to 8 p.m. in *Ireland*, and from 7 a.m. to 6 p.m. in the *Netherlands*. When shifts are worked, these limits are extended or wholly removed. Thus in *Ireland* these restrictions apply only to single-shift operations, though there is also a prohibition of the employment of women during the night. A licence is required to operate a shift system when it is not rendered necessary by processes which normally require to be carried on without interruption for a period exceeding 15 hours. In the *Netherlands* the hours at which men and women may be employed are extended to cover the period from 5 a.m. to 11 p.m. in the case of a two-shift operation and all limits are removed as far as men are concerned

in cases where three-shift operations are authorised. In *Switzerland* the regulations contain a whole list of processes for which night work is regarded as essential, and restrictions on night work are therefore removed in such cases. It is only to the extent that there is a prohibition of night work or other restrictions on the hours at which work may be performed, that recourse to a system of shifts is subject to difficulties.

A clear distinction must be made between systems operating two or three separate shifts and those using the rotation systems or overlapping shifts.

Two-shift systems may be worked either in the form of a day shift and a night shift or by means of two shifts without recourse to night work. The former case requires an authorisation to have recourse to night work in those countries in which it is prohibited, and in a large number of countries such an authorisation cannot be granted in respect of women. It is usual in the case of men employed in the printing of newspapers and frequent in certain other industries, in particular engineering.

A two-shift system may, however, also consist of two shifts worked within the day. In this case wherever there are restrictions on night work, in the absence of overlapping shifts, the length of the shift is determined by the daily period during which work may be performed. For instance, where women are employed, this figure is limited to 16 hours in *Great Britain*, or 18 hours in *Japan*, so that the average shifts are limited to 8 or 9 hours, including in each of the two examples given above a half-hour rest period.

Three-shift systems are affected by the legal requirements regarding the weekly rest. In cases in which three shifts are usually worked, the average working week is likely, in the absence of recourse to relief shifts, to amount to one-third of the period of operation permissible during the week. Thus if a weekly rest of 24 hours is enforced, as is the case in many countries, the average working week is likely to be 48 hours. If, as for instance in *Czechoslovakia*, the weekly rest is extended to 32 hours, hours of work on such shift work are likely to fall to $45\frac{1}{3}$ a week; and in *Latvia*, where a 42-hour weekly rest is required, a three-shift system, where worked, would imply a limitation of hours to 42 on the average. In certain cases the fixation of the starting time and finishing time of certain operations by agreement or custom determines the average hours that may be worked under the three-shift system. For instance in British steel-melting furnaces the period is limited to 143 hours and in rolling mills to 135 hours, which has for effect

the limiting of the average working week to $47\frac{2}{3}$ or 45 hours respectively.

The result of such systems may well be that the hours worked by different shifts are unequal; e.g. in the British rolling mills one shift may work 48 hours, another 47 and the third 40. In the same way it is a frequent practice to have shorter hours for work performed at night than for work performed by day in those industries which alternate day and night shifts. As these shifts are normally arranged to take turn and turn about, this involves a calculation of the hours of work as an average over several weeks, usually two weeks where a two-shift system is worked and three weeks where a three-shift system is worked. Regulations which do not modify in the case of shift work the normal weekly and daily hours do sometimes provide for the calculation of these limits as an average over several weeks, usually three weeks, even where such averaging is not permitted in other cases.

Shift work, especially when it involves night work, carries with it certain obvious social disadvantages in that it involves irregular schedules and makes it difficult for the worker to adjust his time to the normal course of family life. Certain regulations therefore tend to provide for shorter weekly or daily limits when work is carried on at night as compared to work carried on by day. This is indicated, for instance, in the legislation of *Argentina, Brazil, Bulgaria* and *Mexico*, and in certain collective agreements, in particular in the agreements in *Great Britain* for the engineering and the printing industries.

It is also a frequent practice for work performed at night to be remunerated at a higher rate than similar work carried on by day. As this factor essentially is concerned with wage schedules, wage supplements for night work have not been taken into account in the present analysis.

In addition to the system of employing two or three shifts of workers, the possibility arises of having recourse to rotation systems or overlapping shifts in order to increase the period of operation in relation to the hours of work of any individual workers.

Rotation systems are very diversified but in essence they consist in giving each worker some time off during the period of operation or of business of the establishment—the worker usually, but not necessarily, being replaced during that time. A rotation system may, for instance, be instituted according to which the plant or business may operate during six days of 8 hours so that each worker, in addition to the weekly rest day, is given one day off, turn and

turn about. A relief man or shift, if required, replaces the workers absent on any particular day. This is the system advocated in *France* in certain cases by the Committee of Enquiry on Production, which recommended that it should be authorised subject to provisions ensuring adequate supervision when it was used. In the same way, overlapping shifts, though prohibited or restricted in a few countries, permit of longer periods of operation of plant or business than would otherwise be possible on a single shift. In shops, in particular, recourse to overlapping shifts enables a shop to have the service of all its assistants during rush hours whilst working with a reduced staff during slack hours. By this means it can serve its customers over a longer period of the day without thereby prolonging the hours of work of its employees.

A distinction may be made between arrangements by which the times of starting and finishing work of individual workers in the same establishment vary, so that a different number of persons will be employed according to the time of day, an arrangement sometimes referred to as "staggering hours" and arrangements providing that a whole group of workers start and finish work at the same time, even though the hours of two groups may overlap during part of the day.

It is with a view to preventing possible abuses under shift and rotation systems that authorisations are often required to enable them to be operated. In some countries the authorisation is given in each individual case, while in other countries a list of the industries in which shift work is permitted is included in the regulations. In addition, certain conditions are imposed on the use of shifts, as, for example, with regard to their alternation. Particulars of the hours of work under shift systems indicating whether the hours of work on shift work are below or above normal hours for single shift operations, and the cases in which hours may be calculated as an average over several weeks, are given below. These only refer, however, to provisions making explicit reference to the use of shifts. In other cases, the conditions applicable to single shift operations may be deemed to hold good.

2. LIMITATION OF HOURS

(a) *Shorter Hours for Shift Work*

The legislations of certain countries, e.g. *Argentina*, *Brazil*, *Bulgaria* and *Mexico*, provide for shorter daily limits to the hours

of work for work performed at night. This limit is reduced from 8 to 7 in the case of *Argentina, Brazil and Mexico*, and from 8 to 6 in the case of *Bulgaria*.

In other regulations shorter hours may be provided for persons employed on shifts than would otherwise be the case. Such a situation exists in *Australia, Belgium, Canada (Ontario), Czechoslovakia, Denmark, Great Britain, Japan*, and the *Union of South Africa*.

In *Australia* the Commonwealth builders' labourers' award provides for 8 hours on shift work instead of $8\frac{3}{4}$ in effect when not on shift work. The weekly limit is not modified thereby. In the Broken Hill Mines agreement workers employed in the concentrating mills and winding enginemen have an 8-hour day and a 40-hour week, and persons employed underground have a 7-hour day including half an hour crib time, and a 35-hour week.

In *Belgium* a collective agreement covering the textile industry in Flanders fixes hours as from 1 March 1938 at $46\frac{1}{2}$ hours a week and $7\frac{3}{4}$ hours a day for the two day shifts, and 40 hours a week for the third or night shift.

In *Canada (Ontario)* the Factories, Shops and Office Buildings Act applicable to women provides for an 8-hour day when shifts are worked instead of a 10-hour day. Weekly hours are thereby reduced from 60 to 48.

In *Czechoslovakia*, a collective agreement for the glass bottle industry limits hours to 40 for the shift operations, which provide for four shifts with an 8-hour cessation of operations on Sundays.

In *Denmark* printing agreements reduce the limit from 8 to $7\frac{1}{2}$ hours.

In *Great Britain* the Factory Act taken in conjunction with the Employment of Women and Young Persons Act 1936 has for effect the limiting of hours of work of women employed in shifts to $41\frac{1}{4}$ hours a week on the average. This arises out of the fact that women may only be employed between 6 a.m. and 10 p.m., may not be employed after 2 p.m. on Saturday, and must be granted half an hour's rest in each shift. Where the work of the process for which the system of shifts is authorised is not carried on for more than five days in each week, the average hours of work may be 44 a week.

A number of collective agreements reduce hours when shifts are worked. For instance, the agreements of the Amalgamated Engineering Union, instead of a 47-hour week worked on a single shift, provide for a 43-hour week for the first shift and a $37\frac{1}{2}$ -hour

week for the second and third shifts. Average hours of work are therefore $40\frac{1}{4}$ hours if two shifts are worked and $39\frac{1}{3}$ if three shifts are worked. An agreement for piece workers in the manufacture of laminated springs in Sheffield provides for a $44\frac{1}{2}$ -hour week. The agreement for the building industry in Scotland provides for a 48-hour week for the first shift, 46 for the second and 40 for the third, so that the average is 47 if two shifts are worked and $44\frac{2}{3}$ if three shifts are worked. In the civil engineering construction industry an 8-hour day is worked instead of a 9-hour day if shifts are worked, and the weekly limit is fixed as 48 instead of $44\frac{1}{2}$ for one-third of the year and $49\frac{1}{2}$ for two-thirds of the year. In the London furniture industry, the day shift may work 47 hours and the night shift $45\frac{1}{2}$ hours. In the printing industry the day shift works 45 hours, whilst the hours of the night shift have been reduced by two hours where they were 45 or more, and otherwise down to $42\frac{1}{2}$ hours. In the case of hæmatite ore miners in Lancashire the first shift works 46 hours and the second and third shifts 40 hours, so that the weekly average will be 43 hours if two shifts and 42 if three shifts are worked. In the steel industry the average hours of work depends on the period of operation. Thus in steel melting it is usual to work three shifts of 48, 48 and 47 hours respectively, averaging 47 hours and 20 minutes. In steel rolling, 48, 47 and 40 respectively, averaging 45 hours, are worked in tin plate and sheet works either three shifts of 46, 40 and 40 may be worked, or 6-hour shifts may be resorted to, both cases averaging 42 hours a week.

In *Japan* the maximum average shift for women works out at $8\frac{1}{2}$ hours (instead of the legal maximum for a single shift of 11 hours including one hour's rest). This figure of $8\frac{1}{2}$ hours may be deduced from the fact that night work for women is prohibited between 11-p.m. and 5 a.m. and that half an hour's rest must be granted in each shift.

In the *Union of South Africa* wage determinations for the printing and for the general machinery and engineering industry set a limit at 40 hours for night work, the limits for day work being longer.

(b) *Longer Hours for Shift Work*

In two cases, in *Austria* and *Ireland*, longer hours may be worked if shifts are operated even if these are not continuous.

In *Austria* a special provision applicable to lime-works in which operations do not exceed 180 days a year permit a 12-hour day

to be worked after consultation with the employers and workers concerned, but overtime payment is to be made beyond 8 hours a day.

In *Ireland*, whilst most shift work of a non-continuous character comes under an average 48-hour provision, any shift operations for work which normally requires to be carried on without intermission for periods of not less than fifteen hours at a time, defined in the Irish Conditions of Employment Act as "continuous work", may work up to 56 hours a week.

(c) *Calculation of Hours over Periods exceeding One Week*

In most countries the main difference between the provisions for work on single shifts and for work which is carried out by shifts but which is not necessarily continuous, lies in the fact that hours of work may in the case of shift work be calculated as an average even where such a method of calculation could not be permitted for work carried out in a single shift. Averaging is usually permitted to facilitate the change-over of shifts.

Thus, in *Argentina, Belgium, Colombia, Greece, Ireland* (for work which is not deemed to be continuous, i.e. which does not normally require to be carried out without intermission for periods of not less than fifteen hours at a time), *Luxemburg, the Netherlands* (for certain categories of work), *Rumania, Sweden, Venèzuela* and *Yugoslavia* the 48-hour week limit is not modified but hours may be calculated as an average.

Average hours exceeding 48 a week are provided for in *Finland*, where in pulp and paper works an alternative to absolutely continuous operation leads to a $50\frac{2}{3}$ -hour average working week.

The period over which the average hours of work may be calculated is of two weeks in *Great Britain* under the Factory Act and of three weeks in *Argentina, Belgium, Colombia, Finland, Greece, Ireland* (for non-continuous operations as above defined), *Luxemburg, the Netherlands* (in most cases), *Rumania, Sweden* (except in the case of the hydraulic work of the State), *Venezuela* and *Yugoslavia*.

The period amounts to four weeks in *Czechoslovakia* for glass bottle works and certain types of shift work; in the *Netherlands* where this four-week period is an alternative to the systems averaged over three weeks; and in *Sweden* for the hydraulic work of the State.

On occasions limits are set to the maximum hours which may be worked in any one week. Thus, *Argentina* provides for

a 56-hour week maximum, and in *Great Britain* the Factories Act provides for a maximum of 45 hours if work is carried on on six days a week and 48 if work is carried on on five days in each week only. In the *Netherlands*, the regulations lay down maxima varying according to the nature of the work of 54, 56, 60 or 62 hours a week.

An absolute daily limit is seldom provided, as the 8-hour day may usually be averaged. In *Great Britain*, however, the shift is limited to 8 hours, unless work is carried out only on five days a week, in which case a 10-hour limit applies, and in the *Netherlands* to 8½ hours except on the day of the change-over of shifts or in so far as required to ensure a Sunday rest. In *Ireland* the daily limit is fixed at 9 hours, and in *Sweden* on the hydraulic work of the State at fourteen hours for workers on regular turns and 11 hours for other workers.

§ 6. — Limitation of Hours for Shifts in necessarily Continuous Processes

1. NATURE OF THE PROBLEM

There are certain processes in industry which are required by reason of the nature of the process to be carried on continuously by a succession of shifts. Work in such cases is not interrupted over the week-end. The problem of the legislator lies in adjusting the normal limits of hours of work in such a manner that these continuous processes may be carried on as efficiently as possible. In most cases this has involved longer weekly limits of hours than those fixed for industry as a whole.

Continuous operations may arise out of technical requirements, economic considerations or the necessity of meeting the requirements of the public.

In most cases the regulations on the subject refer, as far as industry is concerned, to work in connection with those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts. The notion of the necessity for the work being continuous is implied in the legislations of *Belgium, Bulgaria, Canada* (Nova Scotia), *Colombia, Czechoslovakia, Estonia, Finland, France, Germany, Greece, Lithuania, Luxemburg, Norway, Poland, Portugal, Sweden, Switzerland, the U.S.S.R., the United States* (Arizona, Colorado, Nevada, Pennsylvania), and *Yugoslavia*.

The operations concerned are mainly those in which a loss of heat is a major consideration. These include certain operations in iron and steel plants, in particular in connection with blast furnaces, and operations in glass works. In other cases the interruption in the flow of material would cause a stoppage of the apparatus such that it would be very difficult to restart it. This is the case, for instance, in blast furnaces if the blast were to be cut off, and in certain processes in the manufacture of rayon. Similarly in the chemical industry there are a number of operations which have to be carried on without interruption. The regulations refer in particular to the manufacture of sulphuric, hydrochloric and nitric acids, to the distillation of coal tar, to work in aniline and ammonia compound factories, etc. Continuous operations also play an important part in paper and pulp factories, in sugar factories and in some operations connected with brewing. Drainage work in civil engineering and building and the control of the pumping and ventilating plant in mines, are among the important operations covered. Further, public utilities providing the community with electricity, gas and water have as a rule to function uninterruptedly.

In some countries operations which are not required by reason of the nature of the process to be carried on without interruption are in fact so operated for reasons of economy arising out of a desire for a fuller utilisation of the plant or to economise fuel. It is difficult to dissociate these operations in certain regulations, as in some of them the fact that the process is in practice carried on continuously would appear to be a sufficient condition for the special provisions to apply. This is the case in *Austria, Canada* (Alberta and British Columbia), *India, Ireland, Italy* and the *Netherlands*.

It is impracticable in this Report to distinguish between those operations which can be interrupted and those which cannot, as such a distinction depends in part on the process used and on the state of technique and scientific development.

Operations may also have to be uninterrupted with a view to serving the public. This is, for instance, the case in the gas and electricity undertakings; this reason is expressly referred to in the regulations of *Cuba, Germany* and *Yugoslavia*.

The list of the continuous processes for which special provisions are included in the regulations is a lengthy one, and varies from country to country. In certain countries it is provided that the competent authority shall determine the processes to which these

special provisions should apply, but no lists are available. Detailed lists are to be found in the regulations themselves in *Czechoslovakia, Estonia, Finland, Italy* and the *Netherlands*, and such a list can be compiled in the case of *Switzerland* by including in it processes which are exempt both from the restrictions on night work and from the restrictions on Sunday work ¹.

It would appear unnecessary in this Report to give any detailed analysis of the processes which are, in each country, regarded as necessarily continuous.

The above lists, however, apply only to industrial undertakings, and it should be borne in mind that continuous operations are also required in certain non-industrial establishments—for instance, in telephone and telegraph services. In addition there are a number of services which have to be operated at all times of the day, such as fire brigades and the police. These are, however, not dealt with here.

There are various ways in which the hours of individual workers can be adjusted to continuous operations. In certain industries it is a customary practice to arrange for each shift of workers to be succeeded by another shift of a similar composition in terms both of numbers and of technical qualifications. In other cases it is the current practice for a rotation system to be introduced.

The first method, that of successive shifts, is current in many countries, and is typified by the operation of blast furnaces and glass works. Where these systems are applied, the 168 hours of the week may be divided into three or four shifts, the average weekly hours of work being 56 or 42 hours respectively. A number of regulations permit the three-shift system, which implies an extension of the normal hours of work from 48, where that limit is the normal one, to 56 hours a week. In *France* the Decree applying the 40-hour week permits an average limit of 42 hours in the case of necessarily continuous processes. The three-shift system involves shifts of 8 hours, and a four-shift system may be worked on a basis of either 6 or 8-hour shifts.

Under these methods it is necessary to make special provision for the weekly rest and for the alternation of shifts. In a three-shift system this implies that on the day of the change-over of shifts

¹ Several of the above lists of industries or processes have been published as an appendix to an article on "The Regulation of Hours of Work in European Industry", which appeared in the *International Labour Review* from July to November 1928. The content of these lists has changed only in very minor respects.

one group of men should work a double shift of 16 hours, another group enjoying a rest of 24 hours on that occasion. Thus each group will get one period of 24 hours rest and one spell of work of 16 hours in every three weeks. The change-over may equally be effected by two shifts working 12 hours each on the day of the change-over. A 24-hour rest is thereby secured to each group once in three weeks, and a 12 hours spell is worked twice in three weeks. The maximum number of hours worked in any one week will amount to 64 hours in the first case and 60 hours in the second. These limits will be reached respectively once or twice in three weeks. It will be seen that the change-over of shifts calls for the calculation of hours of work over an average of three weeks in the case of a three-shift system.

In the case of a four-shift system, if the spell of work is 6 hours each group will have to work two 6-hour spells in a 24-hour period once in four weeks in order to ensure rotation. Under the system of four 8-hour shifts, a number of schedules are known to be practised the object of some of which is to prevent changing the starting time of each group of workers too frequently, and to ensure longer continuous periods of rest at regular intervals. For a description of such methods, reference should be made to the reports on the alternation of shifts and rest periods in automatic sheet glass works ¹ and on the reduction of hours of work in glass bottle manufacture ².

Other methods imply the institution of rotation schemes. Under such methods, each worker in a group of workers may be replaced in turn by a relief man whose qualifications are such that he can replace any one of the other members of the group. If several groups of workers are similar in composition, and are required to combine the same qualifications, a relief group may replace successively each of the other groups, which may thus be given one or two days' rest a week in turn. Thus schedules can be arranged giving each worker either six or five 8-hour spells in any week, each worker or group of workers being replaced by a relief worker of the shift on one or two days in each week.

Under these systems it is often possible so to arrange hours that a 40 or 48-hour week is applicable to all the individual workers in every week. A weekly rest of 24 or 48 consecutive hours can thus be granted. In practice, however, it is much easier to arrange such schedules if a measure of flexibility enables the hours of work to be

¹ International Labour Conference, 1933, Seventeenth Session.

² International Labour Conference, 1935, Nineteenth Session.

calculated over a period exceeding one week, and attaining on occasions twelve weeks, or even more. Systems of this type usually operate in electricity undertakings, telephone exchanges, and have been introduced in many countries in industries such as the chemical and iron and steel industries as a means by which a reduction of hours has been effected, the system of successive shifts formerly in force having been replaced by such rotation systems.

An analysis of the limits of hours provided in case of continuous operations, the methods of calculation, and the conditions to which such work is subject, will be found described below.

2. LIMITATION OF HOURS

(a) *Limitation of Hours by the Shift or Week*

Limitation of the length of the shift only to 8 hours, without any limitation over a period of a week or longer, is provided in the regulations in *Portugal* and in the *United States*. In the latter country this applies to employment in mines, smelters, reduction works, stamp mills, concentrating mills, chlorinating processes, cyanide processes, cement works, rolling mills, rod mills, coke ovens and blast furnaces in *Arizona*; in cement and plaster manufacturing plants in *Colorado*; in underground work in mines in *Nevada*. The daily limit may be increased on the occasion of the change over of shifts.

Limitation by the week, without the possibility of averaging is provided for in *Australia* (Commonwealth Metal Trades Award), *Bulgaria*, *Colombia*, *India*, *Ireland* and *Yugoslavia*.

A 42-hour week is provided in *Bulgaria*.

A 48-hour week with payment of hours worked in excess of 44 at overtime rates is agreed to in the *Australian* awards for the metal trades.

A 56-hour week applies in *Colombia*, *India* and *Ireland* for all continuous work.

A 60-hour week applies in *Yugoslavia*, with overtime rates for hours worked in excess of 48 a week.

The length of the shift in the above systems is limited to 6 hours in *Bulgaria*, 8 hours in *Australia*, 9 hours in *Ireland* and 10 hours in *India*.

(b) *Limitation of Hours over Periods exceeding One Week*

This is permitted in *Austria*, *Belgium*, *Cuba*, *Czechoslovakia*, *Denmark*, *Estonia*, *Finland*, *France*, *Germany*, *Great Britain*, *Greece*,

Ireland (in the case of continuous operations in glass bottle works), *Italy, Lithuania, Luxemburg, Netherlands, Norway, Poland, Rumania, Sweden, Switzerland, the U.S.S.R., and the United States* (Pennsylvania).

(i) *Limitation to Weekly Average of below 42 Hours per Week*

Such a limitation exists only in *Czechoslovakia, France* and the *U.S.S.R.*

The 40-hour average week is fixed in *Czechoslovakia* under the collective agreement for the rayon industry.

In *France* the Decrees covering underground work in mines from which metal ores, asphalt and bituminous schists are extracted, provide that in the case of continuous work required for the working of pumps, ventilators, air compressors and for electric power substations in the mine, the weekly limit of 38 hours and 40 minutes may be calculated as an average. In the continuous services of undertakings for the production and distribution of electric power of the Departments of the Seine, Seine-et-Oise and Seine-et-Marne, and in undertakings for the purifying, raising and distribution of water, an average 40-hour week is provided for.

In the *U.S.S.R.* the daily limit of 7 hours usually worked in continuous undertakings only for four days in five, may be averaged over a month where it is impossible for technical reasons to adhere to the strict 7-hour limit.

(ii) *Limitation to an Average of 42 Hours per Week*

An average limit of 42 hours is to be found in certain cases in *Belgium, Czechoslovakia, France, Great Britain, Ireland and Italy.*

In *France* and *Italy* this limit is of a general character. In *France* it is included in the Decrees for all the industries in which the possibility of necessarily continuous operations is provided for, except those mentioned above, which permit average hours below 42 a week.

In *Italy* it applies to all necessarily continuous industrial work.

In *Belgium, Czechoslovakia, Great Britain and Ireland,* the average 42-hour week applies to certain types of necessarily continuous work only. In *Belgium* and *Great Britain* it covers necessarily continuous work in automatic sheet glass works and in *Ireland* in glass bottle works. In *Czechoslovakia* it is provided for in agreements covering the yeast industry and distilleries and alcohol refineries.

(iii) *Limitation to an Average of 44 Hours per Week*

The Act of the State of Pennsylvania in the *United States* which prescribes a 44-hour week in general applies also to continuous operations in manufacturing and public utilities.

(iv) *Limitation to an Average of 48 Hours per Week*

An average 48-hour week is provided for in all cases in which continuous work is authorised in *Norway* and in certain specified cases in *Austria, Cuba, Czechoslovakia, Great Britain, Netherlands* and *Sweden*.

In *Austria* a 48-hour week applies to blast furnaces with a provision that if hours are worked beyond this figure, overtime rates should be paid.

In *Cuba*, in public activities, hours may be distributed in such a manner as not to exceed 208 hours in one month.

In *Czechoslovakia* an arrangement of hours providing for an average 48-hour week by the use of a relief shift is recommended in a ministerial circular, though this limit may be extended to 56 on certain conditions, one being that hours in excess of 48 shall be paid for at overtime rates.

In *Great Britain* certain collective agreements apply a 48-hour week to continuous operations, in particular, in the case of blast furnaces and in the chemical industry.

In the *Netherlands* this limit is applied to certain categories of continuous work, other categories being authorised to work an average 52 or 56-hour week.

In *Sweden* it applies to State hydraulic undertakings.

(v) *Limitation to an Average from 48 to 56 Hours per Week*

Provisions embodying an average 52-hour week apply in the *Netherlands* to certain categories of continuous work.

In *Denmark* a special Act limits the hours in undertakings working continuously day and night to 160 in three weeks, or an average 53 $\frac{1}{3}$ -hour week.

(vi) *Limitation to an Average of 56 Hours per Week*

This limit is to be found in the regulations applicable to such continuous operations as are considered by the competent authority to come under the special provisions applicable to continuous work in *Austria, Belgium, Czechoslovakia, Estonia, Finland, Greece, Lithuania, Luxemburg, Poland, Rumania, Sweden* and *Switzerland*.

In *Czechoslovakia* this limit is however permitted only as an

alternative to the working of an average 48-hour week by means of a relief shift; the latter method is recommended in a ministerial circular.

In addition, in the *Netherlands*, this limit applies to certain processes enumerated in the regulations, others being limited to an average 48 or 52-hour week.

In *Canada* (Alberta, British Columbia and Nova Scotia), *Sweden* and *Turkey*, the normal limits of hours apply in the case of continuous processes, but the regulations contain provisions enabling the competent authority to modify these normal limits.

In the case of *Canada* (Alberta) the Board of Industrial Relations may in the case of continuous operations, investigate conditions and exempt an undertaking, either wholly or in part. In British Columbia under the Hours of Work Act, the Board of Industrial Relations may make orders determining the extent to which the hours provisions may be exceeded for necessarily continuous processes. In Nova Scotia under the Hours of Labour Act, the Board of Adjustment is to determine the limit of hours in the case of continuous processes. In *Sweden* the Labour Council may authorise exceptions within the necessary limits where continuous processes are deemed essential. In *Turkey* special regulations are to be made by order, but a three-shift system may be resorted to where necessary, and the method of rotation is to be communicated to the competent authority.

(vii) *Period over which the Weekly Hours of Work may be Calculated*

The average hours of work mentioned above may be calculated over periods varying from 3 to 26 weeks according to the countries and the regulations in question.

The period of *3 weeks* is provided in the regulations in *Austria*, *Belgium* (with the exception of sheet glass works), *Czechoslovakia*, *Denmark*, *Estonia*, *Finland*, *Greece*, *Lithuania* and the *Netherlands* (subject to the possibility of averaging over 4 weeks in certain cases).

The period of *4 weeks* is provided in the regulations in *Belgium* for automatic sheet glass works, in *France* for glass works in general, in *Great Britain* for automatic sheet glass works, in *Ireland* for bottle glass works, in *Italy*, in the *Netherlands* for certain types of work and in *Sweden* for State hydraulic undertakings.

The period of *one month* is referred to as the averaging period in *Cuba* and the *U.S.S.R.*

Average hours may be calculated over *12 weeks* under all the

Decrees in *France*, other than those mentioned elsewhere in this section.

Calculation over a *period exceeding 12 weeks* is permitted only in *France* and in the *United States* (Pennsylvania). The *French* Decrees provide a *3 months'* period in the case of underground work in mines from which metallic ores, asphalt or bituminous schist are extracted, *25 weeks* in the case of undertakings for the purifying, raising and distribution of water, unless a longer limit is fixed by agreement and *26 weeks* in the case of the continuous services of undertakings for the generation and distribution of electric power in the Departments of the Seine, Seine-et-Oise and Seine-et-Marne.

In the *United States* regulations adopted under the general Act in Pennsylvania authorises averaging over *20 weeks* in the case of continuous operations in manufacturing and public utilities.

There is no specified limit to the period over which hours of work may be averaged in the case of the chemical industry in *Great Britain* and in the case of the regulations applicable in *Luxemburg, Poland, Rumania* and *Switzerland*.

(viii) *Maximum Length of Shift*

The maximum length of the daily shift is expressly fixed at 8 hours in the provisions of the regulations which refer to continuous work in *Australia* (Metal Trades Award), *Belgium, Cuba, Czechoslovakia, Denmark, Estonia, France, Great Britain* (legislation covering sheet glass works and in collective agreements), *Ireland* (bottle glass works), *Italy, Poland* and *Switzerland*.

It is fixed at $8\frac{1}{2}$ hours in the *Netherlands*.

The maximum length of the daily shift is in all cases subject to extension on the day of the change over of shifts, some regulations providing for an extension to 16 hours (e.g. Denmark, Estonia, Germany, the United States (Pennsylvania) and others to 12 hours (e.g. Netherlands, Switzerland).

(ix) *Maximum Weekly Limit*

The maximum number of hours which may be worked in any week may result from the system of rotation followed (for instance a 64-hour week under a three-shift system with a 16-hour day for the change over of shifts), but it is explicitly provided only in the *Netherlands* where the week is limited to a maximum of 54, 60 or 62 hours, according to whether the hours of work for the process in question are limited to 48, 52 or 56 per week.

C. — MAKING UP LOST TIME

§ 1. — Nature of the Problem

National regulations have adopted several different methods for making less rigid the limitations on hours of work so as to meet the practical needs of industry and commerce. As has been shown above, one method used is that of uneven distribution of daily hours of work throughout the week; another is the calculation of average weekly hours over a period exceeding one week. A third method which will be discussed here is that of permitting the making up of lost time either within the same week or over a longer period of time. A fourth method, to be examined in the next chapter, is that of special exceptions and extensions of normal hours in the form of overtime.

-1. RELATIONSHIP TO OVERTIME

Provisions for making up lost time are frequently found in national regulations in order to render more flexible the restrictions placed upon normal hours of work by permitting the employer, under certain specified conditions, to extend the daily hours of his employees if the working week has been shortened by circumstances outside his control. From the point of view of the employer the extension thus provided differs from ordinary overtime in that the total hours actually worked may not exceed the weekly limits, or the average limit if calculated over more than one week. From the point of view of the worker, the daily working hours are extended in the same manner as overtime extension, but without overtime pay. There are, however, a certain number of marginal cases in which the provisions in national regulations do not indicate clearly whether the method adopted is in fact a recourse to making up lost time or to ordinary overtime. For example, in the case of *Sweden* a clause occurs providing that "if any natural event or accident or other circumstance which could not be foreseen causes an interruption in the work of an undertaking, or involves imminent danger of such interruption or of injury to life, health or property, workers may be employed beyond the hours of work prescribed so far as the aforesaid circumstances require". A similar clause in the *Lithuanian*

legislation provides that hours of work may be extended "if such work is temporarily necessary in any department of an undertaking because the work in this department has been interrupted or completely stopped owing to unforeseen circumstances, and this hinders work in other departments of the undertaking". In either of these cases, the provisions for extension might under certain circumstances be in the nature of making up of lost time provisions, but they seem designed primarily as extensions to normal hours of work. A further overlapping between the overtime provisions and the making up of lost time provisions occasionally occurs in regard to the procedure for authorisation and to the keeping of records. For example, in *Argentina* and *Poland* the registers for overtime include records of extensions of hours for making up lost time.

A different aspect of the problem of making up lost time from the point of view of the worker relates to the guarantee of wages. If the worker is paid per hour, a stoppage in work may result in lowering his earnings. Certain collective agreements contain making up lost time provisions, largely with regard to maintenance of earnings. For example, in the 1937 collective agreement in the building industry in *Poland* it is stated that "if the interruption in the hours of work is not the fault of the employer, or if it is caused by bad weather, the workers do not have the right to demand payment for the time lost. If shortage of merchandise or other obstacle to the running of the establishment occurred before the beginning of work, but after the arrival of the worker, he has a right to be paid for two hours of work. The employer must make available to the worker the possibility of making up lost time."

A special use of the concept of making up lost time is contained in the legislation for salaried employees in *Chile*, which provides that "time spent by the salaried employee in rectifying mistakes made by him during the normal hours of work shall not be deemed to be overtime".

2. RELATIONSHIP TO UNEVEN DISTRIBUTION OF HOURS THROUGHOUT THE WEEK

Making up lost time provisions should be distinguished from the ordinary provisions, discussed above, which permit an uneven distribution of hours of work over the different days of the week as a regular practice primarily designed to make possible a weekly

half or whole holiday. The extensions of daily hours analysed here refer only to the authorisation given to the employer to make up for working time that has actually been lost through no fault of his own. However, marginal cases also occur, in the legislation, which make it difficult to ascertain definitely from the drafting whether in fact a clause in which it is stated that making up lost time is permitted, is not merely intended to cover the authorisation of longer hours on one day in the week as a consequence of shorter hours on another. When such arrangements are concluded in advance, and become part of the ordinary distribution of working hours, they are not considered as a form of making up lost time. An example of such a marginal case is to be found in the legislation of *Yugoslavia*, which provides that "if less than 8, 9 or 10 hours are worked in any undertaking on one or more days in a week in accordance with local custom, or an agreement between the employees and the occupier of the undertaking, more than 8, 9 or 10 hours a day may be worked in the said undertaking on the other days of the week, provided that such extension shall not in any case amount to more than 1 hour a day, nor exceed the number of hours of work previously lost".

3. RELATIONSHIP TO AVERAGING

As has already been indicated, it is also possible to meet the need of flexibility and thus enable any time lost to be made up without making specific provision for it, by permitting recourse to the system of calculating the limitation on weekly hours over a period exceeding one week. While some legislation includes both general averaging provisions and specific authorisations for making up lost time, other regulations only permit the employer to make use of the averaging system. The distinction to be drawn between the two kinds of provision is that extensions for making up lost time are usually permitted only in consequence of a special authorisation, are strictly limited in amount, and cannot under any circumstances exceed the period of time which has actually not been worked.

§ 2. - Scope

Definite provisions for making up lost time appear in the regulations of a considerable number of the countries analysed in this Report. Some apply to all forms of economic activities, some to

industry and commerce in general, and some are restricted to certain branches of industry or to certain categories of shops. As some of these countries apply a more rigid system of limitation of hours by day and by week, and others apply a more flexible system providing for calculation of hours over a period exceeding one week, it is not possible to make any distinction according to the scope or the form of the regulations. The provisions will therefore be analysed here according to the motives for authorising the making up of lost time, the limitations set upon the number of hours that may be made up, the period within which this may be done, and the procedure followed when such provisions are acted upon.

§ 3. — Analysis by Motives

1. WITHOUT SPECIFIC MOTIVES

Certain regulations provide for the making up of lost time without giving any indication of motives other than the fact of work having been stopped. It is generally indicated, however, that such stoppage must be collective or at least affect a whole department, or branch of an undertaking or establishment.

In the *Argentine* Act provision is made that special regulations shall specify the cause and the extent to which time may be made up and it is left to the administrative authorities to determine that the reasons given are sufficient.

In *Germany* provision is made in the Hours of Work Order and in some collective rules for making up time lost on a working day without any reference to motive; specific provisions to this effect appear in regard to road work.

In *Hungary* provision is made in special regulations for the wood working, upholstering, printing, boot and shoe, textile and flour milling industries that "if employees in any establishment or part thereof have worked less than 8 hours on any working day or days in the week, although the hours of work have not been fixed at less than 8, the hours of work thus lost may be made up".

In *New Zealand*, although there is no provision in the legislation, it is possible, according to some awards, when men lose time through no fault of their own, to make it up by mutual agreement. A specific example is found in the Local Bodies Labourers Award.

In *Poland* a provision of the Hours of Work Act states that in undertakings or departments thereof where hours of work amount to less than 48 in any week, the time lost may be made up during

the next three weeks. Special regulations then indicate further limitations upon hours thus made up.

In the *United States* regulations of the Works Progress Administration include a provision that the worker shall be given the opportunity to make up time lost due to illness or temporary interruptions in the operation of the project beyond his control.

2. "FORCE MAJEURE" OR ACCIDENT

A number of national regulations provide for the making up of time lost in cases of *force majeure* or accidents. Some of the regulations define precisely what is included under *force majeure* or accident and others leave it entirely unrestricted. Further, in the legislation of *Austria* and of *Estonia*, no specific mention is made of accidents or *force majeure*, but the reasons given are the same as those which are dealt-with in other countries as *force majeure*.

Provision is made in *Austrian* regulations for making up lost time in certain industries and for certain categories of workers for interruptions of industry or transport, lack of materials and the influence of the weather. These provisions occur primarily in the limitation of hours for lime works, the building industry and related trades. (In lime works time may also be made up for "other causes".)

In *Brazil* provision is made in the general Acts concerning commerce and industry for making up of lost time in case of compulsory interruption of work over which the employer has no control, due to accidental causes or *force majeure*. In the regulations concerning pawnshops the additional provision is made that the accident must "prevent the completion of the task".

In the *Bulgarian* regulations concerning commerce, the motive for making up lost time is given as fortuitous occurrences or *force majeure* and the latter is defined to mean accidents to plant, interruption of electric power for the engines, lighting or heating plants, interruptions of water power or any other accidents.

In *Egypt* provision is made in the legislation for prolonging daily hours in case of a collective stoppage of work due to an accidental cause or to *force majeure*.

In *Estonia* provision is made in cases of collective stoppage of work in an undertaking or part thereof due to causes over which the employer has no control, and which are unforeseen, such as alteration of raw material, interruption of motor power and atmospheric difficulties.

The most complete definition of accidents or *force majeure*, however, is to be found in the *French Decrees*, which define *force majeure* as including accidents to material, interruptions to motive power, catastrophes, bad weather, shortage of material as a result of accident or bad weather, shortage of fuel, shortage of means of transport, and cleaning of chimneys, ovens and heaters. This definition, as can be seen, includes a number of factors which in the regulations of other countries are frequently treated separately from *force majeure* or are given as the only possibilities for making up lost time.

In the *Greek* legislation provision is made for collective stoppage in case of accident or *force majeure* and the latter is defined on somewhat the same lines as in France, as accidents to material, failure of driving power, general lack of raw materials, and catastrophes.

The 1937 *Italian Decree* states that collective agreements may provide for making up of suspensions of work due to *force majeure* as well as to interruptions due to stoppages of work. The more specific condition that stoppages of work must be due to unforeseen causes beyond the control of the worker or the employer, although contained in the 1923 Decree, is not repeated in the 1937 Decree.

In the *Spanish* legislation *force majeure* is given as a motive and additional provisions cover failure of power, or supplies or lack of raw materials.

In the *United States* making up lost time is permitted in the case of laundries in Arizona, to allow for repaiss or if due to a stoppage of machinery; in cotton or woollen manufacturing in Georgia, in the case of accidents or other unavoidable circumstances; and in the textile industry in South Carolina in the case of accidents. Similarly the Pennsylvania law permits the making up of lost time resulting from alterations, repairs or accidents to machinery or plant except that no stoppage of machinery of less than 30 minutes may justify any increase in hours.

In *Venezuela* a general stoppage of work due to accident or *force majeure* permits extension of the daily hours, and *force majeure* is defined as in *Bulgaria* to mean accidents to plant, failure of the power, lighting or water supply, catastrophes, etc.

3. TIME LOST OWING TO WEATHER CONDITIONS

Indication has been given above, under *force majeure*, that provisions are frequently made for making up lost time in case of

weather conditions or the state of the sea. It may be of use to indicate certain specific provisions found in the legislation in this regard.

In *Austria* special provisions are made for certain workers in so far as they are engaged in work either at a place where building is going on or in preparation for building work in case of bad weather.

In *Estonia* special provision is made for atmospheric difficulties.

Making up of lost time is permitted in *France* in case of bad weather in the Decrees covering occupations which are especially subject to climatic conditions, or where bad weather involves collective stoppages of work. In some cases, recourse to these provisions is made dependent upon a special authorisation of the Inspector of Labour after consultation with the workers' and employers' organisations concerned. The Decrees also sometimes contain provisions that the possibility of making up lost time may be suspended in case of prolonged unemployment in the occupations concerned. A special form of making up lost time provision is indicated in France for occupations which are dependent upon the action of the sea or tides. Other provisions make possible the authorisation of extensions of hours for work which must be interrupted either to avoid work under freezing conditions or because of dampness.

In *Greece* provision is made for changes of weather in industries or occupations which, on account of their nature, are subject to the influence of such changes.

In the *Netherlands*, from 1 April to 1 October, workers in the cement and concrete, peat, and brickmaking industries may work longer than normal hours on the three last days of the week and on Saturday afternoon to make up time lost on one or two preceding days of the same week because of atmospheric conditions.

In *Spain*, as in France, provision is made for time lost for reasons beyond the employer's control in cases not only of bad weather but also of the state of the sea.

In the *United States*, regulations of the Works Progress Administration provide for the making up of time lost due to bad weather. A similar provision covers public works in New York State.

4. SLACK SEASONS

Special provisions for making up lost time for seasonal work or slack seasons occur only in the *French* regulations, where a special

credit of hours is provided in a large number of the Decrees both in industry and in commerce. Some Decrees provide that to justify the use of these extensions the employer must prove that the industry is subject to a normal decrease in work during certain periods of the year; other Decrees, however, extend the use of the making up lost time provisions to cover industries subject to periods of low activity which do not necessarily recur at regular periods. In both cases, either ministerial orders made after consultation of the employers and workers concerned are required to authorise the extension, or, in some special instances as, for example, the champagne industry in a limited region, the Inspector of Labour may make the authorisation without obtaining a special order. All the provisions for making up lost time because of seasonal difficulties are entirely permissive and cannot be invoked automatically. As in the case of *force majeure* they may be suspended in case of prolonged unemployment. In the case of industries subject to periods of low activity which do not necessarily recur at regular periods, the double condition is added that workers who have worked longer hours to make up lost time shall not be discharged within one month of the period of increased hours and that any of these workers then discharged shall have priority of re-engagement in the following 6 months.

5. HOLIDAYS

As has already been indicated, many regulations permit the extension of daily hours during the week in order to allow either the Saturday half-holiday or the five-day week. Some provide for special distribution of hours over two weeks so as to ensure free days. However, these arrangements are not strictly parallel to those treated here, since no working time is actually lost for reasons beyond the employers' or workers' control. The making up of lost-time provisions on the grounds of holidays are designed primarily to meet the more special cases of legal holidays which fall on a working day and thus disorganise the ordinary time-table. These holidays may sometimes be made up on other working days, either within the same week or within the preceding or following weeks, or, if the ordinary time-table provides for another free half or whole day in the same week, this time may be used to make up the time lost on the legal holiday.

In *Australia*, in the State of Victoria, provision is made in regard to shops that in any week in which a public holiday occurs, such public holiday not being on a Saturday, 12 hours work may

be done on two days in such a week, if the shop is closed for the said public holiday. Thus instead of working 9 hours on five days of the week and 12 hours on one day, 3 hours of holiday time may be made up by extending one of the 9-hour days to a 12-hour day. The same provision occurs in the Shop Act of Tasmania, covering only women and children.

In *Austria* provision is made for builders and related trades for making up time lost in consequence of cessation of work on public holidays specified in the Act.

In *Bulgaria* the legislation covering commerce provides for making up of time lost on the occasion of a local holiday or the patron saint's day.

The *French* Decrees also make possible authorisation of the making up of lost time because of a legal holiday on the regular half or whole free day laid down in the ordinary time-table, provided that a weekly rest day is also maintained; the 40-hour weekly limit must not be exceeded in any case.

In *Greece* time lost on official or local festivals, except Sundays and days placed on the same footing as Sundays, may be made up.

In *Spain* it has been arranged by a decision of the Joint Boards that when work is suspended on festivals other than Sunday, the time lost may be made up by extending the hours of work on the other working-days of the year.

Similarly, in the Federal legislation of *Switzerland*, time lost on holidays which are not treated as Sundays, or on a local festival on a working day falling between a Sunday and a holiday, may be made up on the other days of the same week or the preceding or following week, subject to the consent of the workers concerned.

In the *United States*, under the Works Progress Administration, time lost because of a legal holiday may be made up under the same conditions as time lost owing to a temporary interruption of project work. In contrast to this provision, however, certain State regulations specifically forbid the making up of time lost on account of a legal holiday.

§ 4. — Limitations on Time made up

1. NUMBER OF HOURS PER DAY PERMITTED

In almost all cases of making up lost time, the number of hours by which the normal working day may be extended is strictly limited. In most cases this limit is fixed at either 1 or 2 hours.

The normal hours per day may not under any circumstances be exceeded by more than 1 hour in *Austria, Argentina, Estonia, Italy, Spain* and *Venezuela* and in certain cases in *France, Hungary* and the *Netherlands*.

In *France* the limit of 1 hour per day is placed on most occupations permitting making up lost time for reasons of slack season (with the exception of laundries in bath resorts, which during the busy season may extend the normal limits by 2 hours). Further, it should be noted that hours may only be extended by one hour for the staff who were employed during the period of reduced activity; no extension is permitted for employees engaged during the period of increased activity. In a large number of Decrees the 1-hour limit applies when making up lost time because of accidents or in case of bad weather.

In *Hungary* the limit of 1 hour applies to the wood-working, upholstery, printing and boot and shoe industries.

In the *Netherlands*, although up to 5 hours may be worked on Saturday afternoon, only 1 hour is permitted on the other days when hours are increased to make up time lost because of atmospheric conditions.

A limit of 2 hours is generally applied in *Brazil, Bulgaria, Egypt, Germany, Greece* and, in certain cases, in *France* and *Hungary* and in the *United States* (Pennsylvania).

In *France*, in the case of bad weather, and in the case of accidents, 2 hours are permitted normally in a few limited occupations. In case of accidents in a larger number of occupations, the ordinary limitation is 1 hour, but by authorisation of the inspector and after consultation of the organisations of employers and workers concerned, the extension may be increased to 2. Similarly, in certain occupations, in case of bad weather, the normal limitation is 1 hour, but may be increased to 2, in accordance with the same procedure. Further, two hours are permitted in the case of slack seasons in the fruit and vegetable trades, the date trade, dairy produce trade and the buying and forwarding of sea fish.

No limitation is set upon the amount of time that may be made up in the case of the book industry in *France*.

In *Hungary* the 2-hour limit applies to the textile and flour milling industries.

Special exceptions should also be noted to the usual limits of 1 or 2 hours. In the collective rules for the metallurgical industry in the Saar valley in *Germany*, only one half-hour is permitted.

In the *Australian* regulations permitting the making up of a public holiday on one day in the same week, a 3-hour extension is permitted on the one day in which it may be made up, and in the *French* Decrees, holiday make up may occur on one otherwise free whole or half day.

2. NUMBER OF HOURS PER WEEK PERMITTED

In a certain number of countries a further limitation is placed upon the making up of lost time by limiting the number of hours permitted over a longer period.

In *Brazil* provision is made that the weekly average of 48 hours must be maintained.

In *France*, in the building and woodworking industries and in the public utilities, if making up lost time occurs because of bad weather, 6 hours per week are permitted. In case of the making up of lost time, already discussed, on the grounds of bad weather, many Decrees provide that the maximum number per week will be determined by the Inspector of Labour after consultation with the organisations of employers and workers concerned.

In *Germany* a certain number of collective rules provide that not more than 10 hours may be made up per week.

Similarly in the *Netherlands* not more than 10 hours per week may be made up.

In *Spain*, when making up lost time occurs because of a holiday, the extension may not bring the hours up to more than 50 hours a week. In case of *force majeure*, the extension may be greater but if it exceeds 52 hours, the hours beyond this figure must be paid at overtime rates.

In the *United States* in the case of the Works Progress Administration weekly hours may be extended from 40 to 48 to make up lost time; in *Arizona* and in *Pennsylvania* the weekly maxima set in the laws must be maintained.

3. NUMBER OF HOURS PER YEAR PERMITTED

A few regulations limit the number of days per year on which making up lost time may occur or the total number of hours permitted annually. Such limitations may be fixed specifically, providing an amount that runs from 30 to 150 hours per year, or may be determined according to the particular situation.

In *Brazil* making up lost time, as provided in the general Act

for commerce, may only occur on 45 days per year, that is, 90 hours per year. In pawnshops 60 days or 120 hours are permitted.

In the *Egyptian* legislation time may be made up on 30 days per year, giving a total of 60 hours per year.

In *France* a maximum annual limitation of 100 hours is fixed in most cases of making up time as a result of dead seasons. In industries subject to periods of low activity which do not recur at regular intervals a credit of 100 hours is granted to be applied only to the persons employed during the period of reduced hours and not to affect the hours of employees engaged during the active period. However, for example, in certain cases in building industries, 120 hours are permitted, in case of laundries, 125 hours, and, in the case of the fruit and vegetable trade, the date trade, the dairy produce trade and the buying and forwarding of sea fish as well as fruit and vegetable canning, 150 hours. In case of bad wheather, an indeterminate number of hours is permitted for the metallurgical industry, but for most occupations 100 hours are fixed as the limit. However, in the case of industries dependent on the action of the sea and tides and for road work, in which it is important to avoid working during periods of freezing or extreme dampness, the limit is determined by the technical requirements and fixed by the inspector of labour after consultation with the engineer in charge as well as with the workers' and employers' organisations concerned. In some industries, as for example flour milling, the Decrees set the limit at 120 hours, and it is provided that a further credit shall be fixed in special cases by consent. In cases of making up lost time for reasons of *force majeure*, accident, etc., no annual limit is placed on the number of hours permitted.

In the *United States*, in South Carolina, lost time may be made up to the extent of 60 hours per year only.

In *Venezuela* the limit fixed is one hour per day on 30 days of the year.

4. NUMBER OF DAYS OR WEEKS OVER WHICH TIME MAY BE MADE UP

With the exception of the legislation of *Bulgaria*, *Chile* and *Egypt*, limitations of some sort are placed on the period of time over which normal hours may be extended in order to make up lost time. However, this period of time may vary from specific

provisions requiring that time lost be made up during the same week to very flexible regulations such as those in regard to time lost on holidays in *Spain*, which may be made up throughout the year.

In order to make clear, therefore, the variety of these provisions, it appears necessary to enumerate the different kinds of limitations appearing in the national regulations.

(a) *Same Week*

In *Australia*, as has already been indicated, time can only be made up for public holidays, and this must occur on one day during the same week. Lost time must be made up in the course of the same week according to the provisions for the lime industry and builders and related trades in *Austria*, and there is the further provision that this time cannot be made up on Saturday afternoon. In *New Zealand* time lost must be made up on any five days in the same week. However, if the lost time occurred on a Thursday or Friday, time may be made up on the following Wednesday.

Time lost may be made up in the same or the preceding or following week according to the Hours of Work Order in *Germany*, and to the *Hungarian* regulations for the wood-working, upholstery, printing, boot and shoe, textile and flour milling industries, as well as to the federal legislation of *Switzerland*. In the *United States*, in Arizona, time lost must be made up in the same week. In Georgia it may be made up over 10 days.

(b) *Two to Four Weeks*

In *Argentina* and in *Greece* time lost on one day must be made up in a period not exceeding fifteen days, or two weeks from the day when work is resumed. In *Austria* time lost for reasons of public holidays may be made up within the two working weeks preceding or following the public holidays. For pawnshops in *Brazil* and in all *Polish* provisions, time lost must be made up during the three following consecutive weeks. A further restriction in the *Polish* regulations limits the total hours during the four weeks involved to 192. In the *United States*, in New York State, time lost may be made up in the same or the succeeding three weeks.

(c) *Periods exceeding one Month*

In *Spain* provision is made that time lost during holidays may be made up throughout the year, and if lost for any other reasons must be made up during the succeeding weeks.

In the *United States* under the Works Progress Administration, time lost may be made up during the current and succeeding period of a month; in South Carolina it may be made up over three months.

(d) *Graded according to Time lost*

Besides these definitely limited periods, in the *Argentine Republic*, *France*, *Germany*, and *Greece*, graded periods are given according to the number of days lost.

In *Argentina*, although 1 day must be made up in a period not exceeding 15 days, 1 week may be made up in a period not exceeding 60 days and more than 1 week in a period exceeding 60 days, but in the latter case there must be an agreement between the employer and the employees.

In *France*, there is the greatest variety concerning the periods over which time may be made up, as these depend upon the different Decrees. Only a few examples will therefore be cited. For laundries the time lost because of slack season may be made up during 6 weeks. For time lost because of accidents, *force majeure*, etc., according to many Decrees, more than 1 week may be made up only by special authorisation. In some Decrees, 1 day may be made up in 15 days and 2 to 7 days may be made up in 50 days. In other Decrees, 1 day may be made up in 1 week and 2 days may be made up in 1 week or the 2 following weeks, 3 days in 1 week or the 3 following weeks, and 4 or more days may be made up in 1 week or the 4 following weeks. In the sugar industry 1 day may be made up in 2 weeks and 2 days in 3 weeks, up to a maximum of 6 days in 6 weeks. In the bread and confectionery industries on the contrary, an extension of the days to make up time lost may be carried on during the 5 days which follow the resumption of work.

In *Germany*, according to the collective rules for Westphalian quartzite and Bavarian plaster industries, 4 weeks are permitted. Eight weeks are permitted for repair work on State automobile roads in some parts of Germany, and 12 weeks in other parts; while for the building of automobile roads and for all forms of military work, time may be made up throughout the winter.

Similarly, in *Greece*, while 1 day must be made up in 2 weeks, 1 to 7 days may be made up within 30 days, and 7 or more days may be made up in a period to be determined by the competent labour inspector. In any case, in *Greece*, the average of 48 hours per week must be maintained.

5. PROCEDURE

As has already been indicated, when making up lost time is provided for in national legislation, a number of restrictions are usually placed upon the use of these provisions, limiting the grounds on which such extension may be granted, the amount of time that may thus be worked, and the number of days on which the lost time may be made up. In most regulations there are further provisions limiting the freedom of the employer to have recourse to the possibility of making up lost time by indicating the procedure to be followed in each case. By exception, however, the legislations of *Austria*, *Germany* and *Hungary*, place no procedural restrictions upon the use of the making up lost time provisions.

(a) *Methods of Authorisation*

Different kinds of procedural restrictions occur in the regulations. The right to make up lost time may be authorised in advance, in accordance with certain conditions, as a general rule, or it may only be granted following a separate application on each occasion that time has been lost. Some regulations indicate specifically how an application must be made, and what conditions must be fulfilled before an application is granted. In most, but not in all regulations, making up lost time is only granted after consultation of the employers and workers directly concerned, or by previous agreement of the employers' and workers' organisations. Agreement is usually required for the determination of the number of days of lost time that may be made up.

The procedure for making up lost time in *France* is both general and specific, and varies according to the grounds for extension and the amount of extension of hours desired. In case of *force majeure* or accident, making up lost time is granted by right, but special authorisation is required for extension beyond one hour, and is only given after consultation of the workers and employers concerned. For all making up of lost time on the grounds of slack season, bad weather or holidays there must be a special authorisation by the Inspector of Labour, issued after consultation of the employers' and workers' organisations concerned, or in some cases the authorisation must be granted by a Ministerial Order. A further restriction, contained in almost all the French Decrees, enables the Inspector of Labour to suspend the right to make up lost time in any occupation in which there is extensive or prolonged unemployment.

Provisions for authorisation in a rather general form appear in the *Spanish* and *Italian* legislation. According to the *Spanish* Hours of Work Act, all making up of lost time must be in pursuance of a decision of the Joint Boards, which shall make separate determinations for each industry. It was in virtue of this authority that the Joint Boards for the building industry refused any permission for making up lost time to the masons in Barcelona. The 1937 *Italian* Decree states that the collective agreements shall lay down the procedure to be followed in case of making up lost time.

One of the most detailed procedural provisions occurs in the *Argentine* regulations which require that applications for making up lost time shall be made on unstamped paper and be addressed to the authority responsible for the administration of the Act; each application shall state the grounds on which it is made, the class of establishment, the method of making up lost time, the maximum amount of time lost, and the variation or extension of the normal hours. There must be an express agreement between the employers and the employees concerned, and the reasons given in the application for recourse to the making up of lost time provisions must be sufficient in the opinion of the administrative authority under the Act.

Specific individual authorisations similar to those in *Argentina* are required by the *Polish* regulations, which provide that the manager of an undertaking must inform the competent regional labour inspector if he wishes to make up lost time, and lay before him a schedule showing the days on which time was lost, the contemplated distribution of the hours of work and the number of persons who will be employed under such extension. Similarly, authorisations are required from the competent bodies in the *United States*, both under the Works Progress Administration and in certain State regulations.

While no specific authorisation is required, the consent of the workers concerned must be given before recourse to the making up of lost time provisions is permitted according to the regulations of *Brazil*, *Estonia*, *New Zealand* and *Switzerland*.

(b) *Methods of Notification and Registers*¹

In almost all cases when recourse is had to the provisions for making up lost time, the employer must either receive a permit in advance, in accordance with whatever procedure is indicated

¹ See also chapter on the Application of the Regulations.

in the regulations or he must notify the competent labour inspector or officer concerned when hours have been extended as a result of making up lost time. In some countries, the employer is further required to keep a record of all time worked under such authorisation, either as a separate register or as part of a register in which the hours worked under ordinary overtime provisions are recorded.

Permits granted for making up lost time must be registered with the competent authority in *Argentina*. The labour inspector must be notified of extensions for this purpose in *Bulgaria*. In *Egypt* the Labour Office must be notified on the day on which work is resumed, of the cause and date of the stoppage, the total number of hours of work lost, and the alterations in the timetable. In *Estonia* the employer must merely inform the inspector of labour of the competent district whenever any prolongation is necessary. In *Greece* the owner or manager must notify the nearest police station within twenty-four hours and receive a certificate stating the time lost after investigation by the competent police authority. Permits for making up lost time must be entered in a special register by officials of the labour inspectorate or police authorities who shall transmit to the competent inspectorate within ten days a copy of each permit granted by them.

Registers of all time actually worked under making up lost time provisions must be kept by the employer in *Brazil*, *Bulgaria*, *France*, *Poland*, and in the *United States*.

(c) *Payment for Making up Lost Time*

In almost all cases there is no increase in the rate of pay for the extension of hours in order to make up lost time. However, in *Germany*, under the collective rules for the metallurgical industry, the worker is paid half rate for the time which makes up the period when he was paid but did not work. Under the rules concerning the straw-hat industry, the worker receives no pay for the first half-hour and then full pay. In the metallurgical industry in *Württemberg* he receives a 5 per cent. increase in the rate of pay for making up all lost time. In *Spain* any time beyond 52 hours is paid for at an increased rate of pay. In some legislations as in that of *Venezuela*, it is definitely stated that there shall be no increase of pay for extensions for making up lost time.

CHAPTER IV

EXTENSION OF NORMAL HOURS OF WORK

The regulations analysed in the previous chapter enable the undertakings they cover to meet various technical and economic requirements arising out of the nature of the undertaking or the season of the year, by allowing them to extend the normal hours of work under certain conditions.

These extensions have been classified here according to the main reasons for which they are granted and are dealt with in the following order:

- A. Extensions for certain classes of work or occupations.
- B. Extensions on account of accidental circumstances.
- C. Extensions on account of shortage of skilled labour.
- D. Extensions on account of the irregular operation of certain undertakings.
- E. Overtime.
- F. Extensions of hours of work for certain categories of commercial establishments.
- G. Suspension of the regulations or extensions granted for reasons of State.

A. EXTENSIONS FOR CERTAIN CLASSES OF WORK OR OCCUPATIONS

The purpose of the extensions considered under this head is to enable undertakings to carry out certain kinds of work necessary for their normal operation. The kinds of work that will be examined in turn are the following:

Intermittent work;

Preparatory and complementary work and analogous work such as that connected with the transport and delivery

of goods, attending to customers at closing time in shops, or the co-ordination of the work of two shifts;

Work for purposes of tests or research, work that cannot be stopped at will, and work that is necessary to prevent the deterioration of goods; and

Work connected with stocktaking and preparing balance-sheets.

§ 1. — Extensions for Intermittent Work

The purpose of this section is not to consider the various special arrangements made under different regulations to meet the needs of those branches of activity in which most, if not all, occupations are of an intermittent kind, as for instance in shops, hotels, etc.¹, but merely such intermittent work and occupations as occur sporadically in certain branches.

Provisions of this kind are to be found in more than three-fourths of the regulations considered, the countries forming an exception in this respect being *Denmark, Egypt, Estonia, Iraq, Ireland, Latvia, Mexico, the U.S.S.R., and Yugoslavia*. Various methods of extending normal hours are provided to meet the requirements of intermittent work, the general hours of work scheme being applicable without any modification only in *Cuba* and *Uruguay*².

Consideration will now be given briefly to the nature of the work and occupations in question, the length of the extensions for which provision is made, and the special methods of payment that are sometimes stipulated.

1. DEFINITION OF INTERMITTENT WORK

In general the work and occupations described as intermittent consist of two main factors: (1) the attendance factor, which is continuous; and (2) the activity factor, which is not continuous;

¹ For these branches, see the special section of this Report on p. 192.

² In *Cuba*, a Resolution of 2 March 1934 of the Secretary of Labour, rules that night porters, night watchmen and similar employees come within the scope of the Eight-Hour Day Decree and its administrative regulations, except where the said Decree or regulations expressly stipulate the contrary, which, according to the available information, does not appear to be the case. In *Uruguay* the Decree of 15 May 1935 provides that the hours of attendance of workers employed on periodical or intermittent operations may amount to 8 hours, "fully reckoned as hours of actual work", this being the maximum limit laid down in the same Decree for other categories of workers.

the combination of these two factors gives the work its intermittent character. The work involved seems in most cases to consist either of supervision or of certain irregular work that involves little fatigue or does not call for sustained attention or effort.

In some regulations intermittent work is defined in as general terms as these, whereas in others, whether or not they contain such a general definition, a detailed list is given of the kinds of work or occupations involved.

(a) *General Definitions*

Some national regulations mention intermittent work without specifying what they mean by the term. This applies to *Belgium*, where the Act of 14 June 1921 provides that "the Crown may prescribe exceptions in the case of persons whose work is essentially intermittent", to *Luxemburg*, where the Grand Ducal Order of 30 March 1932 applies to "certain classes of workers whose work is essentially intermittent", and to *Venezuela*, where the Code of 16 July 1936 mentions persons "engaged on intermittent work or work that only requires their attendance".

Other regulations, while enumerating, as will be seen later, the kinds of work or occupations involved, also specify that the work in question either consists of "mere attendance" or is "intermittent or discontinuous", or again, consists of "mere attendance or discontinuous work". Thus in *Argentina* the Decree of 16 January 1933 provides for exceptions in the case of work that "by reason of its nature is necessarily intermittent". Again, in *Bulgaria* the Order of 26 April 1933 concerning hours of work in commercial establishments and in *Rumania* the Royal Decree of 30 January 1929, adopt the same notion of "intermittent work". In *Germany* the Order of 26 July 1934 applies to "certain branches of industry or certain groups of workers" in which or for whom periods of mere "preparedness for work" (*Arbeitsbereitschaft*) are usual or very frequent. It is interesting to note that the Federal Labour Court, which is the highest authority in cases of this kind, has had occasion to interpret this expression as meaning a "period of watchful attention in a state of relaxation"¹. In *Turkey* the Order of 22 September 1937 gives the following definition: "work the operations of which, by reason of their nature, are not continuous and only involve intermittent work". In

¹ Cf. INTERNATIONAL LABOUR OFFICE: *International Survey of Legal Decisions on Labour Law*, 1930, Germany, No. 23.

Uruguay the Decree of 15 May 1935 applies to "work involving periodical or discontinuous operations".

Among the countries in which the regulations refer in their general definition both to work involving mere attendance and to discontinuous or intermittent work are *Chile* (Labour Code of 13 May 1931) and *Italy* (Legislative Decree of 29 May 1937).

It will be noticed that the general definitions given of these operations in the various national regulations do not differ much. There is, however, one country, *Czechoslovakia*, in which the regulations are in marked contrast to the others in this respect. The Act of 19 December 1918 in one case fixes the hours of actual work during a longer period of duty and in another case it uses different terms to define these operations, for section 7, applying to public utility undertakings, provides that "the normal working hours of particular groups of workers may be extended if the worker, although he has to remain on duty for a longer time, is not required to do more than 6 hours' work in the day", while section 12 applies to "persons engaged in irregular duties involving little fatigue".

This latter provision may be compared with another that has already been mentioned in the *Argentine* regulations to the effect that exceptions for intermittent work may be granted in cases where the work in question "does not call for sustained attention or effort", and with the *Norwegian* provision (Act of 19 June 1936) that longer hours may be worked "when the work of certain employed persons or classes of such persons is interrupted by periods when there is little or no work to do but when the persons in question cannot leave the workplace".

(b) *Specified Kinds of Intermittent Work*

Many of the regulations, whether they give a general definition or not, mention, sometimes by way of example and sometimes more fully, the occupations and kinds of work specially considered.

Without attempting systematically to classify the occupations and work described in the various national regulations as intermittent, discontinuous, involving mere attendance, etc., it would be well to group them according to the main features of the discontinuous activity that is peculiar to them under the heads of (i) supervision; (ii) irregular work; (iii) supervision and irregular work.

(i) *Work and Occupations consisting Essentially or Mainly of Supervision*

In this group mention should first be made of *supervisors*. This class of workers is referred to in various general regulations,

such as those of *Argentina, Chile, India, Italy, the Netherlands, Portugal, Rumania, Spain* and the *Union of South Africa*. Similar references are to be found in *France* in the Administrative Decrees applying to a series of industries, and in *Germany* in certain collective rules.

Another class of occupations, closely related to that of supervisors and included in the same group, is referred to in the regulations sometimes as *watchmen*, sometimes as *staff employed as watchmen*, and sometimes as the work of *watching*. Among the general regulations that mention watchmen under the heading of intermittent occupations, reference should be made to those of *Hungary, Italy, Lithuania, the Netherlands, Poland, Spain* and *Switzerland*. Regulations with a more limited scope that do the same are, in *France*, the Decrees applying to specified industries, and in *Bulgaria* and *Finland*, the regulations applying to commercial undertakings (in *Finland* also to offices). *Watchmen and night watchmen* are expressly mentioned in the general regulations of *Argentina, Austria, Chile, Italy, the Netherlands, Rumania, Switzerland, Turkey, and Uruguay*.

In a number of cases the general notion of supervision or watching is defined with reference to the object in view. Sometimes the workers in question are required to watch persons, as in the case of the "checkers" (*pointeurs*) mentioned in the *French* Decrees applying to a number of industries and in the *Turkish* regulations, and of the workers responsible for checking the arrival or departure of workers in the undertakings mentioned in the *Rumanian* regulations. In most cases, however, what is to be watched is property, for instance standing crops before the harvest in *Spain*, raw materials in *Poland*, and buildings or property in *Austria, Brazil, Czechoslovakia, Hungary, Italy* and *Poland*. The watchmen may be employed out of doors to watch certain sites, squares, parks, streets, etc., in *Poland*, or rural property in *Spain* and *Brazil*, or again rivers, canals and hydraulic works in *Italy*.

In this last country the regulations contain schedules of intermittent occupations, issued in 1923 and 1931 and provisionally kept in force by the Legislative Decree of 29 May 1937. The schedules comprise no less than 40 items, some of which, according to the classification adopted in this Report, would be considered as preparatory and complementary work, work connected with the transport and delivery of goods, etc. Most of the other items seem to cover the supervision of operations, machinery, or automatic or semi-automatic processes; they include, for example, the persons employed in electrical works in the supervision of machin-

ery, in connection with transformers and switchboards; and the supervision and upkeep of lines and hydraulic plant; the staff of private telephone exchanges; persons employed in connection with gasometers for private use; persons employed in the supervision of plant for pumping up and distributing drinking water, refrigerating plant, water pumps driven by electric motors; persons employed in the supervision of vacuum-producing apparatus, etc.; persons employed in the working and supervision of continuously burning furnaces in certain industries; persons employed in the supervision of drying plant; persons employed in the bleaching and dyeing industry in the supervision of autoclaves, etc.; workers employed in operating and supervising machinery for cutting marble; workers employed at presses for the rapid cooling of soap, etc.

It should be noted that some of the operations special to the electrical industry which are described as intermittent in the *Italian* regulations are so described also in *France* (special Decree for this industry) and in *Uruguay* (Decree of 15 March 1935).

(ii) *Work and Occupations in which Activity is Essentially or Mainly Irregular*

A second group might be made of the various occupations whose main feature seems to be the irregularity of the physical or mental effort involved. This group would include the street porters or messengers mentioned in the regulations of Queensland in *Australia*, *Italy*, *Rumania* and *Switzerland* (Factory Act), the lift attendants mentioned in the *Argentine* regulations, the staff of *petrol service stations* mentioned in the *Uruguayan* regulations, and the newspapers sellers covered in *Greece* by the Legislative Decree of 8 April 1932 applicable to commercial undertakings. Again the irregularity of the work seems to be the reason why the *Italian* regulations include among intermittent employments that of *interpreters* working for travel and tourist agencies and not employed by these agencies on other work.

(iii) *Work and Occupations involving both Supervision and Irregular Work*

This third group covers *caretakers*, whose work often includes cleaning and other operations as well as supervision, and *porters*, whose duties are rather similar and may further include the handling of luggage, etc. These classes of workers are mentioned with reference to intermittent work, etc., in the following general

regulations: *Argentina, Austria, Chile, Hungary, Italy, Poland, Rumania, Spain, Sweden and Switzerland*. They are also mentioned in the *Bulgarian* regulations specially applicable to commerce and in certain *German* collective rules.

In addition to *caretakers* and *porters*, the group includes the *office keepers, messengers, office boys* and similar staff covered by the regulations of *Brazil, France, Italy and Spain*. It also includes staff employed in preventing or putting out fires and described as firemen, fire brigades, fire-fighting services, etc., in the general regulations of *Austria, Hungary, Lithuania, Poland and Uruguay*, and also in *France* in the Decrees applicable to certain industries.

2. LENGTH OF EXTENSIONS

In the previous section, an attempt was made to bring out the main features apparent in national regulations characterising work which is deemed to be intermittent or to consist only of periods of duty, etc., and the nature of the different occupations referred to. The various methods used in national regulations to deal with the question of intermittent work and occupations must now be considered.

The provisions in the national regulations in regard to intermittent work embody one or more of the following solutions:

- (a) complete exemption of intermittent work and occupations from the regulations limiting hours of work;
- (b) the fixing of a daily or weekly number of hours in excess of the general limit;
- (c) extensions of normal working hours.

The solutions will be dealt with in this order.

(a) *Complete Exemption from General Hours Provisions*

Some regulations leave the undertakings entirely free to fix hours of work for intermittent occupations, work involving mere attendance, etc. In such cases complete exemption from the general provisions is granted. Thus in the *Union of South Africa* the Factories Act of 5 June 1931 provides that "no restriction imposed under any provision of this Chapter in respect of place or hours of work or holidays shall apply to any person employed as . . . overseer". In *Hungary* the Act of 26 June 1936 applying to industrial and commercial undertakings specifies that

its provisions concerning hours of work shall not apply to " porters, watchmen, members of fire brigades, persons responsible for keeping watch over places and undertakings, and other persons similarly employed ". In *Lithuania* the Act of 30 November 1919 provides that " such exemptions . . . shall be allowed only in the case of workers . . . responsible for keeping watch and for protecting against fire ". In *Portugal* the Legislative Decree of 24 August 1934 regulating hours of work in industrial and commercial undertakings allows the " exemption from any of the provisions concerning hours of work of persons in positions of . . . supervision ". In *Sweden* the Act of 16 May 1930 expressly states that its provisions shall not apply to " the work of a caretaker which is mainly done by him in his dwelling ". In *Switzerland* the Federal Order of 3 October 1919 includes " the duties of supervisory staff, watchmen, porters and messengers " among the subsidiary operations exempted from the general provisions of the Factory Act ¹. In *Rumania* the regulations, covering work of women and young persons, as well as hours of work, and in *Bulgaria*, *Finland*, and *Greece* the special regulations applying to commerce, provide for the complete exemption of occupations similar to those just mentioned.

In three countries the regulations allow the exemption of some intermittent occupations while treating others differently. In *Argentina* positions of supervision, as defined by the Decree of 11 March 1930, include " in general all the staff employed for purposes of supervision, whether senior or subordinate ", the latter including " night watchmen, porters, lift attendants, and the like "; under sections 1 and 3 of the Act of 12 September 1929, such staff is completely exempted from the general provisions regulating hours of work, while another section of the same Act allows the extension of hours in the case of " workers whose work is essentially intermittent ". In *Brazil* the Decree of 3 November 1933, regulating the hours of work of employees in banks and banking establishments, exempts " inside and outside watchmen " among others, while authorising the extension of hours in the case of " messengers, domestic servants, and the like ". In *Spain* the Decree of 1 July 1931 establishing the 8-hour day on the one hand exempts caretakers in private houses and persons who

¹ Some Cantonal regulations provide for different treatment. Thus in the Ticino the Cantonal Act of 15 December 1936 concerning hours of work in undertakings not covered by Federal legislation institutes a 60-hour week for caretakers, street-porters, etc.

perform similar duties and live in the building which is under their care, field watchers, persons employed in watching duties of short duration, etc., and on the other hand provides for a special maximum working week—72 hours in the case of men and 60 hours in the case of women—for messengers and similar employees, and for porters and watchmen of all classes not covered by the provision mentioned above.

(b) *Limitation of Hours of Work in Excess of the General Limit of Normal Hours of Work*

In rather less than a third of the countries considered the regulations provide for a higher maximum limit to working hours in the case of intermittent work. These countries are *Australia* (Queensland), *Belgium*, *Chile*, *France*, *Germany*, *India*, *Italy*, *Norway*, the *Netherlands*, *Poland*, *Turkey*, and *Venezuela*. Further, in such countries as *Spain* or *Switzerland*, where the regulations completely exempt some classes of intermittent work from the provisions limiting hours of work, or *Czechoslovakia*, where they provide for extensions in some cases, a higher maximum limit is fixed for other classes of intermittent work. Sometimes only a daily limit is fixed (*Belgium*, *Chile*, *Norway*, *Poland*, *Turkey* and *Venezuela*), sometimes only a weekly limit (*Germany* and *Spain*), and sometimes both (*France*, the *Netherlands*, and the Canton of Ticino in *Switzerland*).

(i) *Daily Limits*

The daily limits set for intermittent work, work involving mere attendance, etc., range from 10 to 12 hours. In *Belgium* the Act of 14 January 1921 merely provides that the Crown may prescribe exceptions in the case of persons whose work is essentially intermittent. The measures taken in pursuance of this provision apply only to certain railwaymen, whose hours are fixed at 12 in the day if they live on the premises where they work, and otherwise at 10 in the day. In *Norway* the Act of 19 June 1936 fixes hours of work at 10 in the day. In *Poland* the hours of watchmen, etc., are fixed at 12 in the day if their watching duties do not involve any other work, and otherwise at 10 in the day; further, once a fortnight, when shifts change over, the hours of each worker may be increased to a maximum of 18. In *Switzerland*, in the Canton of Ticino, hours of work for caretakers in private buildings are fixed at 10 in the day, and for those in public buildings at 12 in the day.

In most of the other regulations the daily limit, if any, is set at 12 hours a day, e.g. in *Chile*, the *Netherlands*, *Turkey*, and *Venezuela*. In *France* the special Decrees for certain industries fix the same limit of 12 hours for staff employed in watching and supervision or in fire-fighting services in branches of the chemical industry, slaughterhouses, and biscuit factories, and for certain workers employed in operating and watching machinery in the electrical industry; for various other workers in the electrical industry (technical workers of all kinds, especially persons in charge of substations and transformer stations, etc.) who are housed by the employer in or near the establishment the same limit is fixed indirectly by the stipulation of a rest period between 7 p.m. and 7 a.m. This rest period, it is true, may be interrupted at night provided the interruptions, which are as it were extensions of hours of work, do not exceed 45 in the month. Yet other categories of staff in the electrical industry, and also in the gas industry, who live on the premises are required to be continually in attendance¹. Finally, in *Czechoslovakia*, under the Act of 19 December 1919 hours of work are likewise indirectly limited by the provision that 12 hours' rest shall be allowed in 24 in the case of persons employed in irregular duties that involve little fatigue, such as the supervision and watching of buildings, factories, etc.; other provisions are in force for intermittent work in public utility undertakings.

(ii) *Weekly Limits*

The weekly limits vary according to country and, in some countries, according to industry (*France* and *Germany*). In the *Netherlands* an Order of 8 September 1936 sets a uniform maximum limit of 72 hours a week for all men whose work consists exclusively or mainly in keeping watch. In *Spain* the Decree of 1 July 1931 fixes the maximum limit at 60 hours for women and 72 for men. In *Switzerland*, in the Canton of Ticino, the limit for this kind of work is fixed at 60 hours in the week.

In *France* the limit of weekly hours of work for staff employed as watchmen and supervisors or in fire-fighting services are uniformly set at 56 hours in a large number of industries (metal industry, building industry, textile industry, glassworks, chemical industry, laundries, hides and leather industry, wood-working, paper-making,

¹ On condition that they are allowed a weekly rest and compensatory time off.

pottery and china works, slaughterhouses, flour-milling, distilleries, biscuit factories, sugar factories, bakeries and pastry-cooks' shops, etc.) and in gas and electricity undertakings for staff living on the premises. In the electrical industry, different rules apply to different classes of workers and undertakings. Thus for persons employed in operating and watching machinery and plant, the maximum weekly hours of work are fixed at 48 in hydraulic works employing three workers per full shift, and at 60 hours in productive works and at the transformer stations of power transmission networks, when not more than two workers are employed on each full shift.

In *Germany* the Order of 26 July 1934 provides that special exceptions may be made in collective rules, or failing such rules, by a decision of the Minister of Labour or the Labour Trustee. In practice, a longer working week than the normal is frequently fixed for intermittent work in collective rules. The hours vary from one industry to another and from one district to another. For workers such as caretakers and overseers, the limit is as high as 72 hours a week in the metalworking industry of Brandenburg and Central Germany. It is 60 hours in flour mills in the economic district of Kassel, and 56 hours and 54 hours in the wood-working industry of Saxony and Lower Saxony respectively. Where the collective rules, without defining the kinds of work described as intermittent, set longer hours for such work, the limit is usually 60 (metalworking in Westphalia, Thuringia, Schleswig-Holstein, and Brandenburg), and thus sometimes differs from that fixed for caretakers and overseers in the same industries (72 hours).

In *India*, under the Factories Act of 20 August 1934, the Local Governments have authority to make rules fixing maximum hours of work for workers engaged in necessarily intermittent work. In *Italy* the Minister of Corporations is responsible, under the Decree of 29 May 1937, for fixing maximum hours in the case of work that involves discontinuous service, mere attendance or watching. Finally, in the State of Queensland in *Australia*, under the Act of 6 January 1933, the Industrial Court may fix the maximum number of working hours and days in the week for persons employed in certain callings, some of which can be described as intermittent.

(c) *Extensions of Hours of Work*

The extensions for intermittent work allowed under various regulations may be divided into those which apply to the normal

hours of work fixed for the staff as a whole and those which apply to the extended hours allowed under one of the special schemes just considered.

(i) *Extensions of Normal Hours*

Some of the regulations that come under this first heading provide for extensions without limiting their duration. Thus in *Austria* the Administrative Instruction of 28 July 1920 merely provides that when the hours worked by the classes of workers considered here exceed 8 in 24, the extra hours shall be counted as overtime. Similarly, in *Czechoslovakia* the Act of 19 December 1918 respecting public utility undertakings, provides that the normal working hours of particular groups of workers may be extended if the worker, although he has to remain on duty for a longer time, is not required to do more than 6 hours of work in the day. The Act further stipulates that any hours of duty in excess of normal working hours shall be treated as overtime.

Other regulations, on the contrary, set a maximum limit for these extensions. This applies in *Argentina*, where the Decree of 16 January 1933 provides that "for work that by reason of its nature is necessarily intermittent" special regulations may be issued in respect of each branch of activity. The Decree further provides that "in no case shall the overtime authorised for each person employed in a particular industry exceed 30 hours in the month or 200 hours in the year". In *Brazil* the Decree of 3 November 1933 respecting work in banks provides that the normal hours of work of certain classes of workers, including messengers, domestic servants and the like, may be extended by not more than one or two hours a day. In *France* the Decrees for specified industries provide for different forms of extension. Thus extensions not exceeding one hour a day are allowed in the case of checkers, office boys and similar employees, while on the other hand extensions of four hours a day are permitted, provided the average weekly limit does not exceed 56 hours, in the case of staff employed in watching, supervision and fire-fighting services. The Decree applying to vinegar factories provides for extensions of one hour a day in the case of persons employed in watching the vats where the vinegar ferments and is drawn off, who may also continue to work on the half-days and full days off allowed in addition to the ordinary weekly rest day under the normal scheme applying to these factories.

In addition to the regulations fixing a maximum limit for the

extension of working hours, mention may be made of the Grand-Ducal Order of 30 March 1932 in *Luxemburg*, which provides that the maximum number of additional hours authorised in each case shall be fixed by Ministerial Order for certain classes of workers whose work is essentially intermittent.

(ii) *Extensions to Limits of Hours in Excess of the General Limit of Normal Hours of Work*

Among the regulations that provide for longer working hours for intermittent work and also allow these hours to be extended still further, those of the State of Queensland in *Australia* set no limit to such extensions, but provide that hours worked in excess of the higher maximum shall be treated as overtime. The other regulations that come under this heading, on the other hand, limit the permissible extensions. Thus in *Norway* the Act of 19 June 1936, fixing at 10 in the day the normal hours of work for persons whose work is interrupted by periods when there is little or no work to do, but during which they cannot leave the premises, further provides that the 10-hour limit may be exceeded by overtime, which shall in no case exceed 30 hours in four consecutive weeks. In *Poland* the hours usually fixed at 12 in the day for supervisory staff whose employment involves mere attendance may once a fortnight, during the change-over of shifts, be extended to not more than 18 hours. Finally, in *Switzerland* the Cantonal regulations of Ticino, which fix a 60-hour week in the case of caretakers employed in public and private buildings, street porters, etc., further provide that on not more than 80 days in any year these hours may be exceeded by not more than two in the day, except in emergencies¹.

3. REMUNERATION

It is quite exceptional for higher rates of pay to be fixed for the additional hours in cases where the maximum limit of hours for intermittent work, work involving mere attendance, etc., is higher than that for normal hours of work.

Among the regulations that depart from the usual rule and allow some compensation for the additional hours, mention should be made

¹ The *French* Decree for the electrical industry, which allows, as already mentioned, not more than 45 interruptions of the nightly rest in any one month for technical staff of all categories living on or near the premises, thereby provides indirectly for extensions, the length of which, as distinct from their number, is not strictly limited.

of the *French* Decrees for the gas and electricity industries, which provide, not for overtime rates, but for time off in compensation. In *India*, whenever longer hours are worked in various cases, including that of necessarily intermittent work, time and a half is payable for hours exceeding 60 in the week. In *Spain*, when hours of work are fixed at 72 in the week for men and 60 for women in the case of some occupations such as those considered here, all hours worked in excess of the normal 48-hour limit are paid for either at the same rate as the normal hours or at a higher rate fixed by the joint boards. Finally, in *Belgium* section 13 of the Act of 14 June 1924, providing for the payment of time and a quarter for the first two hours' overtime and time and a half for overtime in excess of two hours, also applies in the case of any exceptions that the Crown may prescribe for persons whose work is essentially intermittent.

On the other hand, higher rates of pay are much commoner for intermittent work when the extensions are really extensions of the normal hours of work. In fact, the only countries where provision is not made for higher rates of pay are *Brazil*, *Poland*, and *France* (the one-hour extensions allowed for checkers, office boys and similar employees). All the other regulations that allow the extension of normal hours of work in the case of intermittent work, work involving mere attendance, etc., and more especially the regulations of *Argentina*, *Australia* (Queensland), *Austria*, *Czechoslovakia*, *Luxemburg*, and the Canton of Ticino in *Switzerland*, provide for the payment of the usual overtime rates.

4. PROCEDURE

The procedure to be followed in order that advantage may be taken of the extensions is briefly described below with reference to the method of extension involved.

(a) *Regulations Providing for Complete Exemption*

Under all the regulations exempting intermittent work¹, mere attendance, etc., from the general provisions concerning hours of work, exemption is unconditional, that is, automatic. There is only one exception to this rule. In *Portugal* the Decree of 24 August 1934 provides that application for exemption shall be made to the

¹ See above, p. 262.

National Labour and Welfare Institute, which may approve or dismiss the application after considering the reasons given.

(b) *Regulations providing for a Higher Limit of Hours of Work*

As a rule, the regulations fixing for intermittent work and occupations a higher limit than the normal hours of work do not prescribe any special procedure, but the longer hours are permitted automatically, as in *Australia* (Queensland), *Belgium*, *Chile*, *France*, *India*, *Italy*, the *Netherlands*, *Norway*, *Poland*, and *Venezuela*, and in *Czechoslovakia* and *Switzerland* (Ticino) for those intermittent occupations for which a higher maximum limit is set. In one case, however, that of *Turkey*, where 12 hours may be worked in occupations that by their very nature are not continuous and only call for intermittent work, such as those of checkers, watchmen and night watchmen, employers must supply the local branch of the Labour Department with all the necessary information in writing concerning the identity of the workers, the work allotted to them, the manner in which the work is to be carried out, and their time-table. It is only in the *Spanish* regulations that a permit must be obtained from a joint board when 60 hours a week are to be worked by women and 72 by men in certain classes of intermittent work.

(c) *Regulations providing for Extensions of Normal Hours*

There is more variety in the procedure laid down in those regulations which allow the extension of normal working hours in the case of intermittent work ¹.

The regulations of *Austria*, *Brazil* and *Luxemburg* do not stipulate any conditions, and it may therefore be inferred that the extensions are automatically available to employers who wish to make use of them. In *Czechoslovakia* no special permit need be obtained for the extension of normal working hours in the case of certain groups of workers employed in public utility undertakings, provided that these workers, although they have to remain on duty for a longer time, are not required to do more than 6 hours of actual work a day; it is necessary, however, for a collective agreement to have been concluded between the employers and workers concerned and approved by the Minister of Social Welfare in agreement with the Ministers concerned. In *France* the extensions are likewise automatically available to heads of undertakings provided they

¹ See above, p. 266.

submit the time-table established for their staff to the departmental labour inspector.

In *Norway*, where a permit need not as a rule be obtained to work overtime on these grounds, application must nevertheless be made to the labour inspector for extensions exceeding 10 and not exceeding 15 hours a week ¹. In *Poland*, if the working hours of staff employed solely in supervision are extended from 12 to 18 during the change over of shifts, no permit is required; on the other hand, a permit must be obtained from the local or district labour inspector before the working hours of persons who have to do subsidiary work besides being in attendance may be increased from 10 to 12 in the day.

The few remaining regulations that allow extensions of this kind usually provide that a permit must be obtained. Thus, in *Argentina* it is provided that the special regulations issued for an industry, branch of industry or commerce, or other distinct occupation shall specify the cases in which an extension of hours of attendance at the workplace may be permitted, and further, that before such permit is granted, due consideration shall be given to "the nature of the duties performed by the workers, the degree of their dependence on the person or persons under whose orders they are directly placed, the fact that the work by reason of its nature does not call for sustained effort or attention, and finally, the supervisory duties entrusted to them". In the State of Queensland in *Australia* the overtime for which provision is made in the case of certain kinds of intermittent work must be authorised by arbitration awards or collective agreements. In *Switzerland*, under the regulations of the Canton of Ticino, a permit must be obtained from the competent department before the longer hours established for caretakers in public and private buildings, street porters, etc., may exceptionally and temporarily be extended.

§ 2. — Extensions of Hours for Preparatory, Complementary, and Analogous Work

It is the common characteristic of the various types of work to which the provisions analysed in this section relate that they are subsidiary to the principal operations of the establishment and

¹ The total number of hours of overtime may in no case exceed 30 in 4 consecutive weeks.

are preparatory or complementary to these. All such subsidiary operations might have been considered together; but as certain of them stand out clearly from the remainder and—in many of the different regulations—are the object of special provisions, it was thought better to devote one sub-section to preparatory and complementary work proper, and a second to other operations—transport and delivery work, attending to customers at closing time in shops, and work necessary for the co-ordination of the work of two shifts.

I. EXTENSIONS FOR PREPARATORY AND COMPLEMENTARY WORK

It is clear that the extension of normal hours of work so that preparatory and complementary operations can be done corresponds to a generally felt need, since out of over forty national schemes which were considered only those of *Mexico*, *Portugal*, and the *U.S.S.R.* have no provisions on the subject.

The following pages will deal with the facilities accorded by the different regulations for work of this sort; the nature of the extension, the procedure which is sometimes prescribed, the conditions which must be fulfilled in exceptional cases, the length of the extension, and the provisions concerning payment will be considered in turn.

1. DEFINITION OF PREPARATORY AND COMPLEMENTARY WORK

The regulations define in various different ways the preparatory and complementary work to which they refer. Some confine themselves to a general description, whereas others enumerate in a more or less exact and detailed manner the classes of work or of workers concerned.

(a) *General Definitions*

A first description of these operations is that they "must necessarily be carried on outside the limits laid down for the general work of the establishment". These or analogous terms are found in a number of regulations, where they apply either to preparatory and complementary work (*Belgium*, *Czechoslovakia*, *India*, *Italy*, *Luxemburg*, *Netherlands*, *Poland*, *Rumania*, *Switzerland*, *Turkey*, etc.) or more especially to maintenance work on machinery or premises (*Australia*, decision of the Commonwealth

Court of Conciliation and Arbitration concerning the metal trades, *France and Germany*).

A second general description, which recurs with some frequency in the regulations, is that these preparatory and complementary operations shall be subsidiary to the principal work of the undertaking or industry concerned. A distinction of this sort is made in *Australia* (decision of the Commonwealth Court of Arbitration concerning builders' labourers), *Austria*, *France* (in particular for persons employed at furnaces, machines and boilers), *Germany*, *Spain* and *Switzerland* (Federal legislation, in which it is the essential distinction).

Lastly comes the general description to be found in the regulations of *Denmark*, *Estonia*, *Germany*, *Hungary* (special regulations for the wood-working industry), *Italy*, *Netherlands*, *Norway*, *Spain*, *Switzerland*, and *Uruguay*; it is that the extensions of normal hours for preparatory and complementary work shall be needed in order that other work may be duly carried out or resumed.

(b) *Specified Kinds of Preparatory and Complementary Work*

In *Austria*, *Belgium*, *Czechoslovakia*, *France*, *Germany*, *Italy*, *Luxemburg*, *Rumania*, *Spain* and *Switzerland*, the regulations apply to wide classes of operations—preparatory work, complementary work, subsidiary work. The same holds good in effect for *Australia* (Tasmania), *India*, *Lithuania*, and the *Netherlands*, where the regulations apply to the workers carrying out such operations.

The other regulations apply either to the parts of undertakings engaged in certain work (*Brazil*, *Greece*) or, more frequently, to specified classes of workers; sometimes in this case they appear to have a narrower scope. The expressions used are either "certain workers" (*Denmark*, *Yugoslavia*) or "certain employed persons or groups of employed persons" (*Norway*), or "the requisite number of workers" (*Sweden*), or the "indispensable staff" (*Poland*).

In *Turkey*, where extensions are allowed for workers engaged in complementary work such as cleaning, the regulations strictly limit these extensions to a specified proportion of the whole staff; the maximum varies from two workers in establishments employing less than 25 persons to five workers in those employing between 75 and 100, and five per cent. in those employing over 100 persons.

In *Austria* the general regulations relate to subsidiary work, whereas in one particular case—the building industry—the per-

missible extension is confined to a quarter of the staff in undertakings employing less than 60 persons and a fifth in those employing 60 or more.

Some national regulations apply to classes of workers whose duties are defined: persons supervising preparatory or complementary work (*Germany, Netherlands, Uruguay*); foremen of various sorts whose presence is indispensable to the preparation or completion of the work (*France, Germany, Uruguay*); certain workers required to engage in their occupation for preparatory or complementary work in an industry in which the occupation in question plays a subsidiary part only (mechanics, masons, and carpenters in the *Spanish* chemical industry), or again the staff employed on preparatory or complementary work outside the normal hours of the undertaking (*Bulgaria*, and in commerce and offices in *Finland*).

If the nature of preparatory and complementary operations is more closely examined, particularly in the light of the lists given in various national regulations, it is found that they can be classed in five groups:

1. Maintenance and cleaning work, whether of premises or of machinery;
2. Work required for certain general services (water, lighting, heating, power);
3. Preparatory work on raw materials, machinery, tools, premises, etc.;
4. The work of starting up and stopping operations, in particular, the heating of ovens, boilers, etc.;
5. The work of operating and supervising certain plant (such as ovens, furnaces, drying plant, boilers, and hoisting gear).

Some of the regulations provide that the lists of operations which they include under preparatory and complementary work may be extended by the addition of other classes not covered by the original measure. Thus, the *Swiss* regulations state that such an addition may be made on application by employers to the Federal Department of Industry, Arts and Crafts, and Labour, which will decide after consulting the cantonal governments. Others have taken into account the difficulties which may arise in practice as to whether or not a given operation can be classified as preparatory or complementary work. In *Germany* it is provided that these points shall be decided by collective rules, and in *Norway* the Labour Council is competent to settle them.

Lastly, certain regulations (e.g. in the *Netherlands* the Order of 11 March 1932 to administer the Labour Act of 1919, and in *Switzerland* the Order of 3 October 1919 to administer the Federal Factory Act, contain particularly full lists of preparatory and complementary operations; some of these, which clearly fall under the provisions contained in the following sections (*inter alia* repairs to transmission gear and machinery, urgent repairs to buildings, the delivery, loading and unloading of goods, and certain work which must be finished within a specified period), are not considered here.

2. PROCEDURE

(a) *Extensions automatically allowed*

The right to have longer hours worked for preparatory and complementary work is in the great majority of cases granted to the employers in question either automatically or on completion of a mere formality. The different regulations agree on the substance of the problem but vary in the manner in which recourse to the extension is allowed. One method is for the regulations to exempt preparatory and complementary work altogether from the scope of the general hours provisions; this is the procedure in *Austria*, *Finland* (commerce), *Lithuania*, *Rumania* and other countries. The extension may also be provided for in the regulations without any special authority being designated to issue permits; this is the case in *Belgium*, *Brazil*, *Cuba*, *Denmark*, *Germany*, *Greece*, *Ireland*, *Luxemburg*, *Netherlands*, *New Zealand*, and *Sweden*.

A similar flexibility would appear to apply in such regulations as those of *India*, which do not themselves define the extensions but delegate the power to do so. In the particular case of *India*, this power is delegated to the local Governments. Other regulations state explicitly that no authorisation is required for extensions in case of preparatory or complementary work (*Czechoslovakia*, *Estonia*, *Switzerland*).

Such extensions are allowed automatically in *France*, and in *Poland* when they exceed an hour a day, but a formality must be completed in the shape of a previous notification to the labour inspection authorities by the management of the undertaking.

In *Turkey* the regulations state that employers desiring to operate extensions must provide the regional office of the Labour Department with certain information, relating in particular to the number of workers affected, the time-table and duration of the

work, the composition of the shifts, and the system of rotation to apply to the workers in question.

In *Italy*, where extensions of this sort would appear to apply automatically, the regulations expressly state that the corporative inspectorate may prohibit them if it finds that the prescribed conditions are not fulfilled. In *Lithuania*, where the position is apparently the same, the application of the provisions concerning extensions for preparatory or complementary work is subject to the supervision of the labour inspectors. In both these cases, therefore, the extensions for which direct provision is made are not subject to permits from the authorities, but the latter intervene to ensure that such extensions are used in the spirit of the regulations.

(b) *Extensions subject to Authorisation*

A number of countries require in general that a permit must be obtained for extensions relating to preparatory and complementary work. In *Argentina* the Decree of 11 March 1930, which covers salaried employees and manual workers and provides that its general provisions shall be subject to permanent exceptions in the case of persons engaged in preparatory or complementary work, states that such exceptions may be granted by industry, branch of industry or commerce, or occupation, and region, and be either general, in which case they are authorised by the Ministry of the Interior after consultation with the employers' and workers' organisation, or special, in which case they merely require a permit from the authority responsible for enforcing the Act. In the *Union of South Africa* the Factories Act provides that the general limits placed on hours of work shall not apply to workers employed in starting motive power for the machinery in the factory, in making preparations for the work of the factory, cleaning up the factory, etc., provided the exemption is authorised by the inspector. In *Spain* the Decree of 1 July 1931 provides that "in each case the exception shall be authorised by the competent joint body or, failing this, by the delegation of the Labour Council". In *Yugoslavia* the Act of 28 February 1922 states that all exceptions are subject to permit from the competent authority, which is required to decide within five days from submission of the application.

Further, such permits must be given, but only in individual cases or with a limited scope, in *Poland*, where the Act of 18 December 1919 provides that an authorisation from the district labour inspector is required in the exceptional case of an extension for more than two hours a day, and in *Uruguay*, where the Decree

of 14 January 1932 concerning establishments working a 5½-day week provides that " the necessary permit shall be obtained from the National Labour Office in advance, or if this is not possible, immediately after the events on account of which the exception is required ".

3. CONDITIONS FOR GRANT OF PERMIT

As a rule, no restrictive condition is placed on the grant of permits to extend working hours in view of preparatory or complementary work. Some conditions of this kind may, however, be found scattered here and there among the various regulations.

One such condition is that the exception may only be granted where it is impossible to replace workers by other workers in the same establishment. This provision is to be found in *Germany* in the regulations dealing with extensions of hours of work over and above 10 hours a day, and also in *Spain*, for workers performing duties on which the stoppage or beginning of the work of other workers depends when, owing to the dissimilarity of the work, the said duties cannot be performed by other workers in rotation. Further, the German regulations to which reference has just been made provide that the exception may be granted only where it is impossible to substitute special workers, or workers from outside the undertaking, or subject to the condition that the work in question is neither " dangerous nor unhealthy ". In *Argentina*, under the Act of 12 September 1929, when permits are granted for exceptions to the general provisions in the case of preparatory or complementary work that must necessarily be carried on outside the limits laid down for the general working of the undertaking, " account must be taken of the extent of unemployment at the time ". In *Denmark*, the Act of 7 May 1937 prohibiting overtime stipulates that the exception may be allowed only if the needs of the undertakings cannot be met by simply modifying the normal time-table of the workers concerned.

Finally, in *Finland* and in the *Netherlands*, in the case of certain workers employed on preparatory or complementary work outside normal hours, exemption from the general provisions regulating hours of work depends on whether the workers concerned are on the permanent staff of the establishment or not.

4. LENGTH OF EXTENSIONS

The length of the extensions for preparatory and complementary work is fixed in a variety of ways. Some regulations set no

limit to the duration of such work; others set limits without defining them clearly; and yet others prescribe a definite length, sometimes with reference to the working day and sometimes with reference to the working week, or even the year. The various national regulations are classified below according to the degree of flexibility in the limits set to the duration of the extensions.

(a) *Unlimited Extensions*

Whenever the regulations exempt preparatory and complementary work from the general provisions concerning hours of work, it may be assumed that the undertakings are entirely free to extend the general duration of such work as they see fit. Such general exemptions are allowed in *Finland*, *Lithuania*, *Rumania* and *Switzerland*. Other regulations, such as those of *Czechoslovakia*, *Denmark* and *Estonia*, which, without stipulating any exemption, do not set any limit to extensions of this kind, seem to afford similar facilities. It should be pointed out, however, more especially as regards *Denmark*, that certain provisions other than those limiting the duration of extensions proper may effect that duration, and tend to reduce it. Instances are those sections of the *Danish Act* of 7 May 1937 prohibiting overtime which prescribe a twofold compensation, in the form of time off and higher pay, for extensions of this kind, and the provision of the *Swiss Federal Act* of 3 October 1919 that extensions shall not last longer than is strictly necessary.

In *Austria* the regulations exempting preparatory and complementary work from the general provisions concerning hours of work nevertheless set definite limits to the extensions in the case of some classes of workers in the building industry.

(b) *Variable Limits*

If a few cases where the regulations set some limit to the duration of extensions for preparatory and complementary work, it may be difficult to determine the exact extent of the limitation, either because in a given country different provisions set these limits in a somewhat different way, or because the duration fixed for extensions of this kind is to be added not to hours of work that have been fixed, but to variable hours or hours already extended under other clauses. Thus in *Germany* the Order of 26 July 1934 sets a maximum limit of 2 hours a day for some kinds of preparatory and complementary work. It also provides that the daily 2-hour limit for such extensions and the maximum 10-hour day may be exceeded in certain circumstances in the case of four classes of preparatory

and complementary work, defined in detail¹. The Order states that "the kinds of work enumerated under points 1 to 4 shall be deemed to be preparatory or complementary work only in so far as they do not last more than 1 hour a day in all, or 2 hours a day in the case of the kinds of work mentioned under points 1 and 2, whether separately or in conjunction with exceptions under any of the other points".

In the *Netherlands* these extensions are subject to a maximum weekly limit of 6 hours in the case of women and 12 hours in the case of men over and above variable basic hours of work, which may be either the general normal working hours or the extended hours allowed for exceptional pressure of work or in emergencies. Similarly, in *Sweden* the Act provides for an extension not exceeding 7 hours a week over and above the basic duration fixed in application of the Act or in virtue of an exception allowed in accordance with these regulations. In *Hungary* the Order of 30 July 1935 applicable to the wood-working industry contains two provisions dealing with different classes of workers. Under the first, the hours of workers responsible for the cleaning and maintenance of undertakings and machinery may be extended by 1 hour a day, this hour being added either to the general working hours or to those fixed for seasonal operations or again to the 10 hours allowed in exceptional cases. The second provision fixes the normal hours of work for mechanics and firemen working in connection with boilers at 10 hours a day and adds that this limit may in cases of absolute necessity be exceeded by 2 hours.

Finally, the duration of the extensions necessarily varies from one branch of an industry to another in cases where, as in *Australia*, *Great Britain*, *Italy*, etc., the regulations are applied by collective

¹ (1) Attending to power, lighting, heating, and hoisting plant, furnaces and similar plant, and the care of draught animals, including the supervision of such work, in so far as work outside the general hours of work of the undertaking or department of the undertaking is necessary to ensure the continuance of operations in full by the next shift;

(2) Preparation of materials and making ready for work of tools and other equipment, including the supervision of such work, in so far as the work cannot be performed during the normal operation of the undertaking without interruption or appreciable disturbance and is necessary to ensure the continuance of operations in full by the next shift;

(3) Cleaning and maintenance of premises, machinery, furnaces and other plant, including the supervision of such work, in so far as the work cannot be done during the normal operation of the undertaking without interruption or appreciable disturbance;

(4) The work of foremen, charge hands and other persons responsible for supervising the workers or operations, in so far as their activities are indispensable to the preparation or finishing of work, or to the co-ordination of the work of two successive shifts.

agreements. The same applies in *France*, where the regulations take the form of special Decrees for each industry. Here the extensions are fixed at 1 hour, $1\frac{1}{2}$ or 2 hours, according to the branch of industry concerned, for preparatory and complementary work in general, for work connected with lighting, heating and power plant, and for the operation and supervision of some kinds of machinery. As regards the starting up of plant, the duration of the extension is fixed, in glassworks at 2 hours on the day the plant is to be restarted, and 4 hours on the day operation stops, but not more than once every three weeks; in such branches as biscuit factories, the clothing industry, and laundries, 2 hours are allowed for starting up, and 3 in the sugar industry. It should be noted that an extension is also allowed for starting up plant in the *Netherlands*, where the Order of 8 December 1936 provides that such extensions may last 2 hours on ordinary days and 5 hours on the days following stoppage in the undertaking.

(c) *Rigid Limits*

A series of regulations, however, prescribe a fixed duration for these extensions. The total number of hours that may be worked is then found by adding the extension to the given basic hours.

In *Belgium* the Act of 14 June 1921 expressly stipulates that the normal working hours, amounting to 8 in the day and 48 in the week, may be exceeded in the case of preparatory and complementary work by not more than 2 hours a day. In *Brazil*, where three different schemes have been instituted, one for industry, another for commerce, and a third for employees in chemists' shops, a rigid limit is fixed in all three. In industry this limit, which is an exceptional one, is fixed at 12 hours a day; in commerce the limit is 1 hour over and above the normal 8 hours; and for employees in chemists' shops it is not more than 30 minutes over and above the normal 8 hours. In *Bulgaria* the Order of 26 April 1933 respecting hours of work in commercial undertakings provides that the hours worked by persons engaged in preparatory and complementary work may in no case exceed 9 in the day, normal working hours being 8 in the day. In *Cuba* the Decree of 19 October 1933 allows half an hour in addition to the normal 8 hours for some foremen and mechanics in undertakings where the general operations cannot begin until the machines are ready. In *Norway* hours of work for the same classes of workers may not exceed 10 in the day. One hour a day is the limit fixed in *New Zealand* under the Factories Act. In *Poland* the Decree of 15 January 1924 fixes the duration

of extensions for preparatory and complementary work at not more than 1 hour a day and in exceptional cases 2 hours, provided the number of hours worked by each worker does not exceed 8 in the day on Saturdays and 10 in the day on other weekdays. In *Turkey* the Order of 22 September 1937 provides that workers engaged in preparatory or complementary work, cleaning, etc. may be required to work not more than 2 hours a day over and above the general 8-hour limit laid down in that Order. In *Uruguay* the Decree of 15 May 1935 sets, in the case of preparatory and complementary work, a daily limit of 30 minutes for extensions over and above the normal 8-hour day. Finally, in *Yugoslavia* such extensions may not, under the Act of 28 February 1922, exceed 2 hours a day.

In *Argentina* and in *Spain* the limit set is an annual one. In *Argentina* the Order of 16 January 1933 provides that when the special regulations applicable to each branch of activity under the Act of 11 March 1930 allow exceptions to the general rules, maximum limits shall be set for extensions of the daily working hours of salaried employees and workers engaged in preparatory or complementary work. Such extensions may in no case exceed 30 hours in the month and 200 hours in the year for each person employed in a given industry. In *Spain* the Decree of 1 July 1931 provides that the joint boards may authorise the conclusion of agreements between employers and workers for the working of overtime provided the extensions do not exceed 240 hours in the year; full use has been made of this provision in various agreements concluded for particular industries.

5. REMUNERATION

Extensions for preparatory and complementary work are sometimes paid for at higher rates and sometimes not. It is difficult to distinguish clearly between the various practices because some regulations are not very explicit on this point. Further, when preparatory and complementary work is regulated by collective agreements, the provisions often vary within the same country according to the branch of industry.

If, however, a number of the regulations that deal with this point are examined, it will be found that they either do not provide for higher rates of pay, or, on the contrary, that they do provide for higher rates or some other form of compensation, such as time off, or in some cases for both.

The regulations that do not prescribe higher rates of pay for

extensions of this kind include those of *Germany*, where the Order of 26 July 1934, making higher rates of pay compulsory for various extensions, explicitly excludes preparatory and complementary work, and also those of the *Union of South Africa* (Act of 5 June 1931), *Italy* (Act of 29 May 1937), *Bulgaria*, and *Turkey* (Labour Code of 8 June 1936). In *New Zealand* the Factories Amendment Act of 8 June 1936 provides that the extension of one hour allowed in the case of male workers employed in getting up steam for machinery shall be paid for at the ordinary rate. In *Brazil* the regulations as regards payment for those extensions are not the same for employees in chemists' shops as for industrial workers. Whereas the Decree regulating the hours of the former does not prescribe any higher rate of pay for the extensions in question, the Decree applicable to industry, on the contrary, provides that a higher rate shall be payable and shall be fixed by agreement between employer and workers or by collective agreements.

In all other cases, extensions of this kind entitle the worker to some special compensation, which very often consists in the payment of the usual overtime rates. This is true of *Argentina*, *Austria*¹, *Belgium*, *Czechoslovakia*, *Estonia*, *Greece*, *Hungary* (in the wood-working industry), *Poland*, *Norway*, *Rumania*, *Spain* and *Yugoslavia*. Since the nature and rates of this remuneration are dealt with in the section describing overtime pay in general, they will not be considered here.

In some countries where preparatory and complementary work does not have to be paid for at a higher rate the workers concerned are entitled to time off in compensation or to have their timetable altered with practically the same result. In *Cuba*, for instance, the provision that an additional half-hour may be worked is subject to the condition that the employees concerned shall be allowed a corresponding break during the general working hours of the undertaking. In *France* the regulations very often stipulate that time off shall be given in compensation for extensions of this kind. This applies to all workers engaged in the cleaning and upkeep of machinery in certain branches of the building, wood, gas and electrical industries and in slaughterhouses and biscuit factories, etc., whereas in the metal working, printing and allied trades, glass-works, in the hides and leather industry, paper making, potteries,

¹ In this country, however, a provision applying specially to the building industry provides that overtime worked in connection with preparatory and complementary operations need not be paid for at a higher rate if such payment is waived by the workers in a collective agreement.

distilleries, the sugar industry, etc., provision is made for time off in compensation only in the case of workers regularly engaged on such work. Other classes of workers, such as staff employed in cleaning the premises in laundries and staff responsible for greasing transmissions in the jute textile industry, are treated in the same way. In *Ireland*, when permits are granted under the regulations to start work, in the case of certain workers, before the hour at which work starts in general, the total number of hours worked by the workers concerned is not increased.

In *Switzerland* the administrative Order of 3 October 1919 applying the Federal Factory Act provides that "when, on certain days, a worker is employed on subsidiary work, in addition to his employment on manufacturing work proper, and on this account works more than 10 hours a day, the hours worked in excess of the normal hours shall be compensated by equivalent time off on the day before or the day after the extension". In *Uruguay* the Decree of 15 May 1935 provides that time off shall be given in compensation for the extra half hour a day allowed in the case of certain kinds of work done before work starts or after it ends.

Finally, two sets of stricter regulations provide for two-fold compensation in the form of both time off and higher pay. In *Belgium* the Act of 14 June 1921 provides that workers required to be in attendance for 2 additional hours in the day shall be allowed a total of at least 26 full days off in compensation per year, besides being paid time and a quarter, which is the usual rate for overtime and is also paid in respect of extensions allowed for preparatory and complementary work. Similarly, in *Denmark* the Act of 7 May 1937 prohibiting overtime, provides that indispensable extensions for such work "shall entitle the worker to the rate of pay laid down for overtime in the relevant collective agreement irrespective of the fact that compensation is allowed in the form of equivalent time off during the normal hours of work".

II. EXTENSIONS FOR WORK CONNECTED WITH THE TRANSPORT, DELIVERY, LOADING AND UNLOADING OF GOODS

The provisions about to be examined are not those regulating the industries which consist chiefly in the transport, delivery, loading and unloading of goods, such as the transport industry, the cartage industry, work in ports, etc., but merely the special

provisions regulating these kinds of work when they are carried on as subsidiary activities in connection with an industry whose principal activity is in another field. These special provisions are much less common than those regarding preparatory and complementary work.

The regulations of a number of countries contain no provisions of this kind: e.g. *Brazil, Bulgaria, Czechoslovakia, Chile, Denmark, Greece*¹, *Egypt, Estonia, Finland, Hungary, India, Iraq, Ireland, Italy, Latvia, Luxemburg, Netherlands, Norway, Poland, Rumania, Sweden, Turkey, Venezuela* and *Yugoslavia*.

The regulations of *Argentina, Austria, Belgium* and *Switzerland* and the Decree relating to the 8-hour day in *Cuba* contain general provisions concerning work connected with the transport, delivery, loading and unloading of goods.

In a few cases, for example, in *Australia* (Queensland), *New Zealand, Union of South Africa*², and *Uruguay*, provisions of the type in question are to be found in the regulations applying specially to commerce. In *Cuba*, besides the general regulation already mentioned, the Act governing hours in commercial establishments contains certain provisions relating to the transport and delivery of goods.

Very often, however, the regulations apply not to all work of the type under consideration but only to certain kinds, found in particular branches of particular industries; in such cases the regulations vary from branch to branch and from industry to industry. This applies for instance in the case of *Australia, Germany, Great Britain, and Spain*. In the *U.S.S.R.* a special provision, issued in the form of a circular of the Labour Commissariat and the Supreme Economic Council, dated 2 February 1930, authorises extensions of hours of work in the transport, loading and unloading of perishable goods, building materials and wheat deliveries only.

1. DEFINITION OF THE WORK

As regards the extension of hours in work connected with the transport, delivery, loading and unloading of goods, the national regulations are based sometimes on a definition of the kinds of

¹ With regard to this country it should be noted that the Decree of 27 June 1932 stipulates expressly that its provisions "shall apply to all work in the preparation, finishing, transport and storage of any raw material or article . . . provided that it is carried out on the premises utilised for the undertaking or occupation".

² Here there is also a special provision dealing with mines.

work, and sometimes of the classes of workers, covered. In the former case they apply, in terms which vary little from country to country, either to all the kinds of work in question or to a particular kind. In the latter case, i.e. when they refer to particular classes of workers, these classes usually vary with the character of the branch of activity to which the regulations apply.

(a) *Definition based on the Kinds of Work covered*

In *Argentina* the regulations apply to transport by cars, lorries, and other vehicles and to the loading and unloading of goods. In *Belgium* the Royal Order of 4 January 1923 stipulates that its provisions apply to "work in connection with the transport, loading and unloading of goods and the driving of lorries or other vehicles, in so far as such work is subsidiary to the work of an industrial undertaking". In *Cuba* the regulation of hours applies to house-to-house delivery work on foot or by horse-drawn or motor-driven vehicle (Shop Hours Acts) and to the work of messengers in industrial and commercial establishments (general Eight-Hour Day Act).

In *France* hours of work are regulated differently in different branches of activity. Among the kinds of work mentioned in the regulations are "the work of drivers of motor and horse drawn vehicles, delivery-men, and storekeepers"; "the work of mechanics, electricians, and drivers employed on the internal railway system of the undertaking"; "the work of persons employed on operating sidings connecting the undertaking with a main or local railway system". The work of "weighbridge-men in charge of the weighing of trucks and lorries" is regulated by some of the special Decrees. In a wider range of activities, extensions are allowed for completing "work in connection with the loading or unloading of trucks, boats, aircraft or lorries within a fixed time-limit if the exception is necessary and sufficient to permit the completion of the work within such time-limit". Finally, extensions of normal hours are provided for in the case of "the work of persons engaged in packing and delivery", for example, in certain branches of the textile, clothing, sugar, and biscuit industries.

In *Germany*, although the hours of work legislation contains no special provisions for these kinds of work (except one provision which treats the care of draught animals on the same footing as preparatory and complementary work), the collective rules frequently lay down special provisions regarding the transport and delivery of goods. In *Ireland* the Conditions of Employment

Act exempts " the transport of persons or goods " from the kinds of work covered by the general provisions. In the *Switzerland* the Order of 3 October 1919 contains special provisions relating, on the one hand, to the transport of incoming and outgoing materials and delivery to customers, and on the other, to the loading and unloading of railway trucks on industrial sidings. Finally, in *Uruguay* the regulations concerning commerce permit the extension of normal hours for the purpose of the delivery of goods sold.

(b) *Definition based on the Categories of Workers covered*

In *Australia*, in the State of Victoria, the Factories and Shops Act covers " any person employed for wages as a carrier or carter in carrying or delivering any goods, wares, merchandise or materials whatsoever or in assisting any such carrier or carter ". In *Queensland*, the Factories and Shops Acts cover " any carter employed in or in connection with the business of a shop or factory ".

In *Austria* the general regulations cover drivers, chauffeurs, persons employed on industrial railways, and other persons engaged in the supervision or management of means of transport. In *New Zealand*, the Shops and Offices Act covers " any shop assistant employed in attending to motor vehicles used in the business of the occupier, or in feeding and tending horses so used ". In the *Union of South Africa*, the Mines and Works Act of 15 April 1911 covers persons employed in " transporting employees to or from their working places underground in the mine. " The Cape of Good Hope Shop Hours Ordinance, as amended, applies also to " shipping clerks employed in or about a shop ", and to " workers employed in the receiving or delivery of goods ".

Finally, certain provisions of the kind here under consideration appear in the special regulations of certain countries.

In *Great Britain* the national collective agreement concluded for the building industry provides for the extension of the hours of labourers " for the purpose of unloading materials which have not arrived at the job or works in time to be unloaded within the normal working hours ". In *Spain* the agreement relating to the petrol industry provides for a similar exception in the case of " cashiers, messengers, and porters ".

It will be seen from the preceding analysis of national regulations that the kinds of work and occupations covered vary considerably from country to country. Their common characteristics, apart from their being subsidiary, are the urgency of their character and the accidental and unforeseeable element in them which renders it

impossible to gauge with any exactitude the length of the working day that will be required for their performance, and consequently to engage additional workers.

2. PROCEDURE

Most of the regulations which provide for extensions of hours for work in connection with the transport, delivery, loading and unloading of goods grant them automatically to the employers. Among those which contain no provision on this point, and which may consequently be assumed to allow such extensions implicitly, are the general regulations of *Argentina, Cuba, Ireland*, and the *Union of South Africa*, and the special regulations concerning commercial and other establishments in *Cuba*, shops and offices in *New Zealand*, shop assistants in the *Union of South Africa*, and commercial establishments in *Uruguay*, and also a few special schemes established by means of collective agreements in *Germany, Great Britain*, and *Spain*. The regulations which expressly state that no authorisation is required for the application of this type of extension are those of *Austria* and *Switzerland*. In *Australia* (Queensland) and *Belgium* no special formalities are required, unless the general limits laid down for the extensions are exceeded, in which case a certain procedure is prescribed. The *Belgian* Royal Order of 4 January 1923 prescribes no formality for extensions up to a total of 2 hours per day and 100 hours per year, but stipulates that special authorisation must be obtained from the Minister of Industry, Labour and Food Supplies for longer extensions. This authorisation may be granted for a period of three months, on the recommendation of the competent labour inspector or mine inspector made after agreement between the head of the undertaking and "the organisation or organisations to which the majority of his workers belong, or, failing such organisation, the majority of his workers".

In *Australia* (Queensland) where the Factories and Shops Acts lay down certain limits for extensions of the kind considered here, a supplementary provision stipulates that "under any extraordinary circumstances the chief inspector shall have power to grant such exemption from the operation of this section as he deems expedient".

Only two systems of regulation among those considered make extensions of this kind conditional upon the fulfilment of special formalities: in the *U.S.S.R.*, instead of the more complicated procedure usually followed in the case of other types of extensions,

all that is required is the subsequent notification to the labour inspector; while in *Australia* (Victoria) the written permission of the chief inspector is sufficient.

3. LENGTH OF EXTENSIONS

The regulations concerning the length of the extensions allowed for the transport, delivery, loading and unloading of goods will, like those dealing with preparatory and complementary work, be considered with reference to the degree of flexibility provided. In this respect it should be pointed out that while the national regulations contain fewer provisions for the transport, delivery, loading and unloading of goods than for preparatory and complementary work, the limits they fix, if any, are usually more rigid.

(a) *Unlimited Extensions*

Only a few regulations appear to fix no limit to the duration of extensions for the transport, delivery, loading and unloading of goods. These are the regulations of the *Union of South Africa* (in one case, workers employed in the packing, receiving or delivery of goods; in another the persons responsible for transporting workers underground in mines), *Ireland* and *Switzerland*, which entirely exempt work of this kind from the hours of work provisions. Further, the Factories and Shops Act of the State of Victoria in *Australia* do not limit the duration of such extensions provided a permit is obtained from the chief inspector and the work is paid for at a higher rate.

(b) *Variable Limits*

As has been stated previously, the *German* laws and regulations do not contain any provisions relating to the transport, delivery, loading and unloading of goods other than that concerning "the care of draught animals", this being treated in the same way as preparatory and complementary work. On the other hand a large number of collective rules contain provisions fixing, for persons employed in transporting and delivering goods, longer hours of work per week than the normal hours, which amount to 54, 56 or 60 hours according to industry and are subject to variable extensions for preparatory work such as "the care of draught animals".

Further, in *Cuba* the Act of 20 July 1932 respecting commercial establishments, which in general prohibits the delivery of goods at customers' houses after closing hours nevertheless provides that

“ this prohibition shall not apply to goods purchased in the said establishments before the said hour ”, the effect of this latter provision being to allow a variable extension.

(c) *Rigid Limits for Specified Industries and Categories of Work or Occupations*

The *French* regulations distinguish between the several classes of work and in each case fix a duration which is sometimes the same, sometimes different, for the various branches of industry, but is always rigid. Thus a uniform 1-hour limit per day is set for “ the work of packing and delivery ” and a uniform limit of 2 hours per day for “ the work of persons employed on operating sidings connecting the undertaking with a main or local railway system ”. A uniform limit of 1 hour, which may be increased by $1\frac{1}{2}$ hours when time for a meal is included in the period of duty, is set for “ weighbridge-men in charge of the weighing of trucks and lorries ” in the metal-working, printing and allied trades, glassworks, the hides and leather industry, biscuit factories, etc. In the sugar industry the limit is usually raised to 2 hours and is only reduced to 1 hour a day during the period following 21 November. Two hours a day is the maximum extension allowed for “ completing work in connection with the loading or unloading of trucks, boats, aircraft or lorries . . . within a fixed time-limit ” in all the industries considered except laundries, where the maximum is only 1 hour a day. An extension of 1 hour a day is usually allowed for “ the work of mechanics, electricians and drivers employed on the internal railway system of the undertaking ”, $1\frac{1}{2}$ hours being allowed for persons driving steam engines; these limits are increased to $1\frac{1}{2}$ and 2 hours respectively in the textile industry. Finally, the extensions, usually fixed at 1 hour a day, for the work of drivers of motor and horse-drawn vehicles, delivery-men and storekeepers ” ($1\frac{1}{2}$ hours in the case of horse drawn vehicles) are allowed only during 40 days in some branches of the biscuit industry, and are increased to 4 hours a day, subject to time off in compensation, for some classes of workers in the gas and electrical industries ¹.

The regulations limiting these extensions by branches of activity include the Factories and Shops Acts of the State of Queensland in *Australia*, which stipulate that “ such overtime may not be

¹ In all the cases mentioned, the extension may be increased by $1\frac{1}{2}$ hours a day when time for a meal is included in the period of duty.

worked after one o'clock in the afternoon on the day of the weekly half-holiday nor before or after the prescribed starting or ceasing time provided for in any industrial award or agreement under the Industrial Arbitration Act of 1916 ”.

Besides these regulations, there are others drawn up by collective agreement in some countries, for instance, in *Great Britain* in the building industry, where these extensions may not exceed 2 hours a day, and in *Spain*, where the national regulations concerning private banks provide for an extension of $\frac{1}{2}$ hour whenever hours of work are less than 8 in the day (on Saturdays and half-holidays) for cashiers, messengers, porters, etc.

(d) *Rigid General Limits*

Such limitation is to be found in the following countries: *Argentina*, *Austria*, *Belgium*, *New Zealand*, *Uruguay*, and the *U.S.S.R.*

In *Argentina* the Decree of 11 June 1933 instituting a weekly half-holiday on Saturday provides that carriages, cars, lorries and other means of transport shall not be on the road on Saturdays between 1 and 3 p.m., except to return with or without a load to their garage or coach-house, and that after 1 p.m. no loading or unloading shall be started, an extension of 1 hour being allowed however to complete operations started before 1 p.m.

In *Austria* a maximum of 16 hours' overtime in two weeks is allowed by law for the work in question. In *Belgium* the Royal Order of 4 January 1923 concerning branches of industry in which the time necessary for the completion of work cannot be precisely determined, institutes an initial general fixed limit not exceeding 2 hours a day and 100 hours a year in conformity with the Act of 14 June 1921, which on the other hand provides that a further overtime quota, not exceeding 2 hours a day during three months, may be granted for such work. In *New Zealand* the Shops and Offices Act provides that “any shop assistant may be employed in attending to motor vehicles used in the business of the occupier or in feeding and tending horses so used beyond the hours of employment provided for in the Act, but not exceeding 1 hour a day”. In *Uruguay* the special regulations applicable to shops allow 30 minutes after closing hours to complete the dispatch of the goods sold. Finally in the *U.S.S.R.* extensions for the transport, delivery, loading and unloading of perishable goods, building materials, and wheat are governed by a provision fixing the total number of hours' overtime that may be worked by each worker

at 120 in the year, not more than 4 hours being worked in two consecutive days on extra work.

In *Cuba* still stricter regulations make the general 8-hour day applicable to clerks and messengers in industrial and commercial establishments.

The maximum daily extension for the transport, delivery, loading and unloading of goods varies considerably, as has been seen. In one or two cases it is reduced to $\frac{1}{2}$ hour, but usually it amounts to 1 hour, $1\frac{1}{2}$ hours or 2 hours and in exceptional cases it may be even longer. This diversity would appear to reflect the great variety of the needs of different undertakings with respect to such work.

4. REMUNERATION

The various regulations usually adopt one of three courses. Either they do not prescribe any higher rate of pay, or they do prescribe a higher rate, or again they provide that time off shall be allowed in compensation for the extensions. The regulations that do not prescribe higher rates of pay for extensions to cover the transport, delivery, loading and unloading of goods include those of *Argentina* (Decree of 11 June 1933 and administrative regulations), *Cuba* (Act respecting commercial establishments), the *Union of South Africa* (various regulations respecting hours of work) and *Uruguay* (Decree respecting shops) and also in *Germany* the special regulations enforced by collective rules.

Among the regulations that, unlike those previously mentioned, prescribe a higher rate of pay, some provide that the higher rate shall be the usual overtime rate (*Austria, Belgium, U.S.S.R.*, and the regulations enforced by collective agreement in the building industry of *Great Britain*), while others fix a special rate. In *Australia*, in the State of Victoria, the rate is time and a half in factories and shops; in the State of Queensland it is the same, plus sixpence tea money. In *New Zealand* the rate is also time and a half, it being understood that the remuneration shall never be less than 1s. 6d. an hour.

The *French* regulations, which as a rule do not prescribe a higher rate of pay for extensions of this kind, provide in some cases for time off in compensation. Nevertheless the extensions allowed for completing "work in connection with the loading or unloading of trucks, boats, aircraft or lorries . . . within a fixed time-limit" are combined and limited in such a variety of ways

for the different industries that they would appear to afford a fairly complete selection of methods of remuneration or compensation, as follows: (a) no increase on the ordinary rate of pay; (b) an increase on the specified rate of pay, or a more favourable rate laid down by collective agreements or prevailing custom; (c) time off in compensation; (d) a choice between an increased rate of pay and time off in compensation.

III. EXTENSIONS AFTER CLOSING TIME IN SHOPS

The extensions considered here are narrowly limited as regards both scope and operation. They are applicable only in commercial undertakings or more precisely retail shops; that is to say, where the regulations fix the closing hours for shops, extensions (or margins, as they are called in some regulations) may be allowed over and above the limits fixed so as to enable shop assistants to finish any selling operations that have begun.

Some of the national regulations examined in this respect do not strictly limit the duration of the extension, others allow ten minutes to a quarter of an hour, but the most common maximum limit for extensions of this kind is half an hour. None of the regulations prescribe any special procedure that must be followed or formalities that must be complied with for recourse to the extensions, nor is any special remuneration prescribed.

1. UNLIMITED EXTENSIONS

Neither the *German* nor the *Yugoslav* regulations definitely limit these extensions, but merely provide that the persons or customers present or on the premises at closing time may or shall be served.

2. MAXIMUM LIMITS

On the other hand all the other national regulations in question set a maximum limit for these extensions.

In *Greece* the Decree consolidating the provisions of the Acts respecting hours of work in commercial establishments stipulates that customers who are on the premises at the time fixed for closing may complete their purchases during ten minutes after the closing hour, and adds that no new customers may be admitted.

In *Great Britain* nearly all the agreements affecting the National

Union of Distributive and Allied Workers allow a fifteen minute margin for the same purpose. The same limit of fifteen minutes is also set in *Portugal* by the Legislative Decree of 24 August 1934, regulating hours of work in industrial and commercial establishments, for transactions, operations and services begun but not completed by the time fixed for closing; the Decree adds that " this margin shall not be converted into a regular system of operation ".

Half an hour is the period mentioned in all the other regulations that provide for these extensions. In the *Netherlands* the Order of 11 March 1932 concerning hours of work in shops states that " work consisting of serving persons who are already in a shop at the time when it is closed to the public and of the clearing-up work connected therewith " which is performed after the specified time shall not be subject to the prescribed limits " during not more than half an hour after the closing of the shop to the public ". In *Norway*, under the Workers' Protection Act, " customers may continue to be served after closing hours but not during more than half an hour. . . . " In *Spain* the Act of 4 July 1918 provides that " persons employed in commercial establishments at closing time may finish their work provided that not more than half an hour is required for the purpose ". In *Uruguay* the Decree regulating shop-closing hours provides that such establishments shall be allowed a margin of thirty minutes after closing time. The same limit is to be found in the *Australian* regulations of Queensland and Western Australia. A somewhat similar provision in the Shop Hours Ordinance, 1919, of the Province of Natal in the *Union of South Africa*, provides that no shop assistant may be employed for more than half an hour after closing time, nor for more than one hour in the aggregate during closing hours in one day.

IV. EXTENSIONS CO-ORDINATING THE WORK OF TWO SUCCESSIVE SHIFTS

Where work is organised in shifts, the object is to ensure continuity of the operations, and that continuity must be maintained also when one shift takes over from another. Hence measures must be taken to ensure that the work shall not be interrupted and it is often necessary to extend the working hours either of certain members of the first shift, or of certain members of the second.

Many regulations do not specifically mention such co-ordinating

work, which in some is covered by the terms preparatory or complementary work, technical operations, etc. In some countries, however, the laws or regulations contains special provisions in this respect, for example, in *Argentina* (workers employed in gas and electrical undertakings), *Czechoslovakia*, *France* and *Germany*.

In *Germany* the operations in question are treated as preparatory or complementary work; the daily limit of 10 hours may be exceeded by foremen, charge hands and other persons employed in the supervision of the employees or of the progress of the work in so far as their activities are indispensable to the co-ordination of the work of two successive shifts.

In *Czechoslovakia*, when an extension of working hours is necessary for uninterrupted operation in certain cases, the handing over of work by one shift to another is treated by the Act as subsidiary work.

In *Argentina* and in *France* the extensions are granted in the case of some highly skilled workers, specialised workers or foremen whose presence is necessary for co-ordinating the work of two successive shifts.

The problem of limitation and remuneration has not been treated in the same way in these four countries.

Whereas the *Czechoslovak* regulations do not fix any special limit, a limit of 1 hour a day is fixed in *Argentina* and in *Germany*. Half an hour is the usual maximum allowed in *France*, where, however, the Decree applicable to the sugar industry allows an extension of 1 hour. In *Argentina* a yearly maximum of 120 hours is fixed.

In *Argentina* and *Czechoslovakia* the extension is paid for at overtime rates, whereas in the other two countries the workers concerned are paid at the normal rates.

§ 3. — Extensions for Technical Reasons

The actual processes used in industrial or commercial undertakings may sometimes make it necessary to extend hours of work. The cases in which the nature of the undertaking itself makes such extensions necessary will be considered later under "Extensions on account of the Irregular Operation of the Undertaking". The extensions to be considered here are those for work whose essential feature is that it must be done quickly or within specified time limits. Such extensions may be defined

more or less strictly in a general formula, or by means of a list, or with reference to certain other extensions of a different kind that are dealt with in other parts of this Report, more especially extensions on account of accidents, extensions for preparatory and complementary work, and overtime in general.

A few general provisions will be mentioned here and also the special rules applying to the following operations: testing and research work; work that for technical reasons cannot be interrupted at will without involving damage or disturbing the organisation of the undertaking; work necessary to prevent the deterioration of perishable goods; and work connected with stocktaking, balance sheets, etc.

1. GENERAL PROVISIONS

(a) *Urgent Work*

Extensions for urgent or exceptional work are allowed under certain laws or regulations in *Canada*, the *Union of South Africa*, and the *United States*, or under collective agreements (for instance, those applicable in the electrical industry in *Great Britain*)¹. In *China* hours of work may be extended to 10 in case of need and owing to the nature of the work. In the *Netherlands* the competent Minister may authorise a certain yearly overtime quota for undertakings that have to meet urgent needs in case where there is no time to apply for and obtain a permit to extend hours of work.

In *Switzerland*, in the Canton of Basle Town, a higher overtime quota is allowed in emergencies.

In the *United States* the regulations issued under the Emergency Relief Appropriation Act, 1935, provide that the normal limits may be exceeded in case of emergency involving the public welfare or the protection of work already done on a project or "in special and unusual circumstances when the limitations set are not feasible or practical".

In *Czechoslovakia*, employers are automatically allowed to work overtime in emergencies, for instance, in the case of orders placed with printing firms by the Government. A similar provision is made in *Hungary* in the Decree applying to the printing and allied trades.

¹ See also "Extensions for Economic Reasons".

(b) *Technical Reasons*

In *Bulgaria* hours of work may be extended where special technical or chemical processes are used. In the building industry, extensions may be authorised by the labour inspector after the matter has been referred to the Higher Labour Council, more especially in the case of building with concrete where the operations cannot be interrupted.

In *France*, in some industries, skilled workers such as leading furnacemen, etc., may be kept at work longer than other staff.

In *Sweden* the Labour Council may, if necessary, allow an extension of hours to prevent any serious disturbance in the working of the undertaking.

In *Switzerland*, under the Administrative Order applying the Federal Factory Act, the competent department may in exceptional cases allow minor exceptions to the stipulations of the Act when extraordinary difficulties would otherwise arise in the organisation of the work, and provided the majority of the workers concerned agree. The Hours of Work Act of the Canton of Basle Town also allows the working of a certain amount of overtime for technical reasons.

2. TESTING AND RESEARCH WORK

In *Estonia* overtime payable at a higher rate may be worked when new or repaired machines and industrial equipment have to be tested. In *Greece* the Decree concerning hours of work in commercial establishments allows an extension of normal working hours when plant is to be installed or repaired. In *France* several Decrees allow extensions not exceeding 2 hours a day for work connected with the testing of a new operation or the installation of new equipment.

In *Argentina* the Decree concerning persons employed in gas and electrical undertakings deals under the head of preparatory or complementary work with the work of persons engaged specially in examining, testing, receiving and preparing apparatus and machinery; the limits set are 4 hours a day and 24 hours a year.

3. WORK THAT FOR TECHNICAL REASONS CANNOT BE INTERRUPTED
AT WILL

(a) *Interdependent Operations*

In *Brazil* and in *Spain* hours of work may be extended in the case of certain operations that are necessary to the carrying out

of other operations in the same establishment; in *Spain* a permit must be obtained. Whereas in *Brazil* the working day may be extended to 12 hours, in *Spain* the extension may not exceed that strictly necessary for the work in question.

(b) *Work that cannot be interrupted before Completion*

In *France* several Decrees provide for the extension of working hours in the case of persons specially engaged on work that for technical reasons cannot be stopped at will, when it is impossible owing to the nature of the operations or to exceptional circumstances to complete the work within the limits laid down in the regulations. Time off must be allowed in compensation for this extension or higher wages must be paid. Similarly, in the *Spanish* metallurgical industry the joint boards may, in the case of operations of a kind that cannot be interrupted before they are completed or have reached a given point, authorise the extension of the weekly hours of work up to a maximum of 60, the additional hours being paid for at a higher rate.

(c) *Work Necessary for protecting the Product*

In *Germany* and the *U.S.S.R.* the laws or regulations allow for cases in which the product of the work must be protected from damage. In the former country, the rule is that the working hours of a few workers may be extended, subject to the payment of a higher rate, when such workers have on particular days to do work the non-performance of which would endanger the result of the operations or cause disproportionate economic loss, and for which the owner of the undertaking cannot be expected to make other arrangements. In the *U.S.S.R.*, in cases of absolute necessity where the stoppage of work would involve damage, overtime may be allowed for completing work that has been started and that for technical reasons cannot be completed during normal working hours.

The same reason for extending hours of work is mentioned in *Brazil* and *Bulgaria* (commerce) in conjunction with that of the necessity of preventing the deterioration of perishable goods.

(d) *Work Necessary to ensure Delivery within Specified Time-Limits*

The necessity for completing work within a specified time-limit is mentioned as a reason for granting extension in some other countries. In *Latvia* overtime may be worked so as to complete urgent

work by the time specified. In *Estonia* hours of work may be extended in small undertakings in order that workers may finish their work at the end of the normal daily hours, when the customer is waiting for its completion.

(e) *Other Urgent Operations*

In *Finland*, *Greece*, and *Spain* hours of work may be extended for urgent operations in commerce, more especially when an establishment is moved or closed down, when a specified time-limit must be respected (*Finland*), when goods are despatched or received (*Greece*). The *Finnish* Act provides that the extension is allowed only if the employer cannot reasonably be expected to take on additional staff.

4. WORK NECESSARY TO PREVENT THE DETERIORATION OF PERISHABLE GOODS

(a) *General Regulations*

Working hours are often extended for work necessary to prevent the deterioration of perishable goods. Various methods are applied in different regulations. The extension may be covered by the general overtime quota without being specially mentioned, or by the special provisions for seasonal industries (e.g. in the *Union of South Africa*), or, in cases that cannot be foreseen, by the provisions concerning extension in case of accidents or *force majeure*. In *France*, for instance, all three methods are adopted under the various Decrees applying the Forty-Hour Week Act in different industries.

(b) *Special Regulations*

In many countries special provision is made for extensions to prevent the deterioration of perishable goods.

(i) *Remuneration*

The methods of remuneration are much the same as those applying in the case of accidents or *force majeure*, more especially in *Germany*, *Italy* and *Poland*¹ and, except in *Italy*, overtime rates are payable.

Normal hours may be exceeded without special remuneration in *Cuba* in the case of operations connected with agriculture that

¹ In Upper Silesia workers employed in bakeries and pastrycooks' shops may work more than the normal hours of work when necessary to prevent the deterioration of raw materials or spoilt work if the work is indispensable and cannot be carried out or completed during normal hours.

require rapid handling, in *Greece* in commerce, and in *Lithuania* for all undertakings covered.

The regulations differ according to branch of activity in *Belgium*, *Brazil*, and *Hungary*. In *Brazil* the Decree applying to industry provides that a higher rate of wages shall be payable as fixed by agreement between the employers and workers or in a collective agreement, whereas the regulations applying to commerce only provide that the additional hours shall be paid for at the normal rates. In *Hungary* overtime rates are payable in the boot and shoe, textile, and flour-milling industries.

In *Belgium*, under the Act of 1921, the extension must be regulated by a Royal Order in the industries where the need is specially felt. In such cases overtime rates are payable.

In several countries—*Bulgaria* (commerce), *Denmark*, *Egypt*, *Estonia*, *Finland*, *Lithuania*, *Norway*, *U.S.S.R.*, *Yugoslavia*—extensions of hours of work to prevent the deterioration of perishable goods are considered as overtime and paid for as such.

(ii) *Procedure and Limits*

Only under a few regulations must a special permit be obtained for the extension. This applies in *Belgium* (after an agreement has been reached), *Bulgaria* (commerce), and the *U.S.S.R.* In *Latvia* a permit must be obtained if the extension is spread over a period of more than six days.

The extension is limited to 2 hours a day in *Belgium* (for not more than three months) and *Yugoslavia* (for not more than 35 days), and to 48 hours in four weeks with a yearly maximum of 200 hours in *Finland*.

The working day may be as long as 11 hours in *Egypt* and 12 hours in *Brazil*.

In *Norway* and the *U.S.S.R.* the general rules concerning overtime are applicable, both as regard limitation and remuneration.

§ 4. — Work in connection with Stocktaking and Balance-Sheets

At certain times of the year, hours of work are extended to allow for stocktaking and preparing balance-sheets. The extension is sometimes allowed on account of "exceptional pressure of work", but in many cases, in view of the special features of such work, these extensions are either paid for at increased rates (*Union of South Africa*) or they are considered as a compulsory extension of working hours. As a rule such extensions apply to all the undertak-

ings concerned, but sometimes only to some establishments, for instance, banks and credit institutions in *Brazil*, *France*, and *Rumania* (ministerial decision applicable in 1931 and 1932).

1. REMUNERATION

In *Bulgaria* (Decree of 1933) and *Brazil* (Decree concerning banks) the normal hours of work may be exceeded, without payment at higher rates, for purposes of stocktaking and preparing balance-sheets. Similarly, in the *United States*, under the collective agreements for retail trade, the normal rates are payable for extensions for stocktaking, provided such extensions do not exceed 4 to 12 hours in two to five weeks.

Time off must be allowed in compensation in *Cuba*, *Spain*, and *Uruguay*.

In *France*, under the Decree for banks and credit institutions (with which the Decree includes social insurance institutions), either equivalent time off must be allowed in compensation or the overtime rates laid down in collective agreements are payable.

In *Argentina*, *Australia* (Queensland Factory Act; Western Australia shop assistants' awards), *Brazil* (commerce), *Finland*, *New Zealand*, *Poland*, and the *Union of South Africa* (Cape of Good Hope, Natal and Transvaal) overtime rates are payable.

2. PROCEDURE

Although as a rule the competent authority need only be notified that advantage has been taken of the extension, a permit must be obtained in *Argentina*, *Australia*, and *Rumania*.

3. LIMITS

In *Brazil*, in commercial establishments, hours of work may be increased to 12 in the day for preparing balance-sheets, stock-taking, etc. In banks, the normal working hours of 6 in the day and 36 in the week may be increased to 8 in the day and 45 in the week for thirty days in the year, but this limit does not apply to the staff required to meet extraordinary and unforeseen pressure of work.

In *Spain* hours of work may be extended by not more than 2 in the day on thirty days in the year.

In *Finland* the limit is 48 hours in four weeks and 200 hours in the year, in *New Zealand* 3 hours in the day and 60 in the year, in *Poland* 4 hours in the day and 120 in the year.

Under the *Italian* collective agreement concluded in 1935 by the confederations of employers and employees in credit and insurance institutions, the national federations have signed agreements providing that the extensions necessary for the half-yearly closing of accounts may not exceed 80 hours a year in credit institutions and 100 hours in insurance institutions. These extensions may not be used for other work.

Under the *French* Decree applying to banks, the daily limits may be exceeded twice a month for the monthly or fortnightly closing of accounts, while staff employed in bills departments may work up to 10 hours in connection with bills maturing on the 15th and at the end of each month.

In *Rumania* under the ministerial decision mentioned above, overtime may be worked on not more than thirty days between 15 June and 1 August and 15 December and 20 January by staff employed in drawing up half-yearly balance-sheets.

In *Australia* and the *Union of South Africa* the limits are those fixed for overtime in general, the rule in the State of Queensland being that overtime for stocktaking may be worked on two half-holidays; in South Australia, under the award covering clerks, typists and other persons employed in banks weekly hours of work may be increased from 42 to 48 during two weeks twice a year.

B. — EXTENSIONS ON ACCOUNT OF ACCIDENTAL CIRCUMSTANCES

When the normal working of the undertaking is interrupted or threatened with interruption as a result of exceptional and unforeseen circumstances such as accidents, catastrophes, etc. it should of course be possible to extend the normal hours of work as far as is necessary to prevent the disorganisation of the undertaking, or to restore it to full working capacity as quickly as possible, or again to protect or save human life. The vast majority of the regulations therefore make provision for special exceptions to meet such contingencies.

§ 1.— Reasons for Extension

The regulations are practically identical in their manner of defining the reasons for extensions of hours on account of accidental circumstances, though they show some divergency in the terms employed. These are either very general, as in the case of "urgent work," or very specific, when they give a more or less detailed list of the main contingencies covered. But on analysis, these extensions even when they are not explicitly mentioned, may be classified according to the following reasons:

1. ACCIDENTS, URGENT REPAIRS, "FORCE MAJEURE"

Accidents, actual or threatened, come first, followed by urgent repairs and catastrophes such as fires, floods, and other unavoidable cases of *force majeure*.

2. UNFORESEEN ABSENCE OF A MEMBER OF A SHIFT

A further contingency which, though less serious than those mentioned above, is likely to upset the normal working of the undertaking is the unexpected absence of a member of a relieving shift, necessitating the extension of the hours of the corresponding member of the shift knocking off work. This possibility may be implicitly included in a more general exception, as, for example, in *Belgium* (letter of the Minister of Labour of 25 July 1924), or it may be explicitly mentioned, e.g. in *Argentina* (gas and electrical undertakings), *Czechoslovakia* (collective agreements), *Estonia*, *France*, *Norway*, *United States* (Montana: mines, telephone exchanges), and the *U.S.S.R.*

§ 2. — Conditions and Limits

In the case of accidents, urgent repairs, and *force majeure* it is difficult to establish any accurate definition of the conditions in which an extension of working hours may be authorised and the limits to be fixed for such extensions. The regulations consequently attempt to make provisions that can be adapted to circumstances, with the one general reservation that the extension is to be utilised

only for the purpose specified and only to the extent necessary to achieve such purpose.

1. CONDITIONS FOR AUTHORISATION

In many cases the regulations stipulate that the extension may be authorised only in so far as it is necessary to prevent serious interference with the ordinary working of the undertaking, e.g. in *Argentina, Belgium, Bulgaria* (commerce, Decree of 1933), *Canada* (Alberta, British Columbia, Nova Scotia), *Colombia, Czechoslovakia, Iraq, Italy, Luxemburg, Poland, Rumania, Venezuela*.

Sometimes, also, the regulations require the employer to use his right to extend hours "in a reasonable manner" (*Finland*) or "to the extent required by circumstances" (*Sweden*).

In addition to the condition of urgency, some regulations stipulate that an extension may be authorised only for work which cannot be executed on an ordinary working day or which must be carried out without delay, e.g. in *Argentina, Australia* (arbitration awards for the metal trades), *Belgium, Chile* (repairs), *Czechoslovakia, Hungary, Union of South Africa* (repairs).

In still other cases the regulations state that the employer must be in such a position that it is impossible for him to adopt other methods, such as the engagement of extra staff, e.g. in *Brazil* (banks) and *Germany*, or that even after engaging extra workers he is unable to dispense with the necessity of extending hours of work, as in *Hungary*.

Moreover, the regulations may require the employer to stop all extension of hours of work as soon as the reasons for them no longer exist, as in *Spain* (mines, quarries, etc.), or they may empower the labour inspectors to limit the length of the extensions or to order their cessation, as in *Italy*.

2. LIMITS

In several cases the regulations fix maximum limits for extensions. The period during which hours of work may be extended is fixed for banking establishments in *Brazil* at 60 days a year and three consecutive weeks; in *Finland* it is restricted to four weeks for industrial undertakings.

A certain limitation may result from the fact that the employer is automatically entitled to extend working hours during a few

days, after which he must apply for a permit: in *Latvia*, after six days; in *Norway*, after four days; in *Sweden*, after two days.

A daily limit is fixed in *China*, where in case of necessity working hours may be increased to 10 in the day; in *Egypt* it is 11 hours, in *Poland* 12 hours which may, however, be exceeded for rescue work; in *Greece* the Decrèè relating to commerce authorises a maximum daily extension of 1½ hours for repairs; in *Uruguay* the hours of workers employed in cold storage undertakings may, in case of *force majeure*, be increased to 10 in the day provided that not more than 48 hours are worked in any one week.

Different methods of limiting the extension are used in *Canada* (Quebec), where the regulations prescribe a maximum working day of 12 hours and a maximum working week of 72 hours and fix at six weeks the period during which such extensions may be made. In *Greece* the regulations for industry authorise an extension on one day without limit or prior authorisation, but require the observance of a 2-hour limit on subsequent days, besides stipulating that an extension may be granted only for the number of days required to avoid serious interference with the normal working of the undertaking.

§ 3. — Procedure

As the necessity for extensions on account of accidents, urgent repairs on *force majeure* naturally cannot be foreseen, it is difficult to lay down any definite procedure for employers who are obliged for these reasons to depart from the usual working time-table. As a rule, however, the employer is required immediately to notify the competent authority, and sometimes, as stated above, when the extension lasts for several days, to apply for a permit.

The regulations in force in *Ireland* deserve special mention. In that country a person charged in court with a breach of the regulations may claim that the extensions was justified by *force majeure* or other similar circumstances, actual or threatened.

§ 4. — Remuneration

The regulations differ on the question whether an extension of working hours on account of accidental circumstances is to be paid at normal rates or at overtime rates. In *Hungary* the remuneration varies from industry to industry; while in the wood-working

industry the regulations in force do not prescribe increased rates, the Decrees relating to the upholstery trades, the printing industry, the boot and shoe industry, the textile industry, and the milling industry require such extensions to be paid at overtime rates.

In *Turkey* the first hour of overtime for such reasons is covered by the ordinary daily wage, but after that every hour of overtime must be paid at the usual hourly rates.

Extensions are paid at the rates fixed for overtime in *Austria*, *Belgium*, *Bulgaria* (industry), *Chile*, *Colombia*, *Czechoslovakia*, *Denmark*, *Egypt*, *Estonia*, *Finland*, *Germany*, *Greece*, *Italy*, *Latvia*, *Norway*¹, *Poland*, *Spain* (industry), *Switzerland*, and the *U.S.S.R.*

On the other hand, remuneration at normal rates is prescribed in *Argentina*, *Australia* (arbitration awards for the metal trades), *Brazil*, *Bulgaria* (commerce, Decree of 1933), *Canada* (Alberta, Quebec), *France*, *India*, *Iraq*, *Ireland*, *Lithuania*, *Luxemburg*, *Mexico*, *Norway* (accidents and cases of *force majeure*), *Portugal*, *Rumania*, *Sweden*, *Union of South Africa*, *Uruguay*, *Venezuela*, and *Yugoslavia*.

In *Spain* the regulations referring to mines, salt mines and quarries state that the competent joint bodies will decide whether extensions have to be paid at normal rates or at increased rates.

C. — EXTENSIONS ON ACCOUNT OF SHORTAGE OF SKILLED LABOUR

One possible obstacle to the introduction of shorter working hours, a measure which generally entails the engagement of additional staff, is a shortage of technicians or skilled workers in certain industries. In order to meet this contingency, the *Czechoslovak* Act included a transitional provision authorising the suspension of the enforcement of the Act in undertakings where such difficulties arose.

§ 1. — General Regulations

In *France* and *Italy* the introduction of the 40-hour week has been facilitated by provisions authorising the extension of hours of work when a shortage of skilled labour occurs.

¹ In so far as unforeseen circumstances and the absence of workers interfere with or threaten to interfere with the normal working of the undertaking.

Under the *Italian* Legislative Decree of 1937 the Minister of Corporations, after consultation with the trade organisations concerned (except in case of special or urgent necessity), may authorise extensions of the 40-hour week when the available number of workers is insufficient, for specified classes of undertakings including handicraft undertakings, or for specified zones or single establishments.

In *France* one of the Decrees promulgated on 21 December 1937 provides that, in addition to the usual overtime quota for exceptional pressure of work, a special allowance of not more than 75 hours a year may be granted to undertakings suffering from a shortage of skilled workers. Orders issued by the Minister of Labour after consultation with the employers' and workers' organisations concerned are to establish lists for the various industries of the skilled occupations for which this allowance may be granted on the basis of the work to be carried out. In no case may the extension exceed 3 hours a week.

It is worthy of note that the application which the employer is required to submit to the competent labour inspector must be brought to the notice of the workers' organisations concerned. If these organisations think that unemployed skilled workers of the trade required can be found locally, they must immediately inform the inspector and provide him with the necessary particulars. The inspector then deals with the application.

Under the *Spanish* Act a shortage of labour is adequate reason for the joint boards to increase the overtime allowance from 120 to 240 hours a year.

§ 2. — Regulation by Industry

Some regulations make provision for extensions of this sort for specified industries. In *Denmark* the collective agreement for breweries suppresses the compensatory rest periods established by the Act of 17 May 1937 in connection with overtime¹ in undertakings in which the two parties concerned consider that the available supply of skilled labour is insufficient. In the *United States* the Wisconsin code of fair competition for the construction industry states that the working week may be extended by 8 hours in cases where an adequate supply of qualified labour is not available in the

¹ See below "Extensions for Economic Reasons".

vicinity. The regulations in force in the *U.S.S.R.* for the same industry also allow for the possibility of extending working hours when there is a shortage of skilled labour having the requisite qualifications.

In this same connection, it may be added that in *France* the Decrees relating to the sugar and molasses industry, seasonal alcohol distilleries, etc., allow the divisional labour inspector, after consultation with the employers' and workers' organisations concerned, to authorise as a transitional measure undertakings which experience difficulty in housing or recruiting staff to extend working hours up to a maximum of 56 in the week during the manufacturing season for the whole of the staff employed in continuous processes and for certain specialised workers.

D. — EXTENSIONS ON ACCOUNT OF THE IRREGULAR OPERATION OF THE UNDERTAKING

In some undertakings the strict observance of the daily and weekly time-table may meet with difficulties arising essentially out of the nature of the work itself. This is so when the operations are carried out discontinuously or irregularly, either because they are subject to the seasons or the weather or are dependent on industries subject to such influences, or because certain periods of the year are accompanied by a rise or fall in business, or again because the technical processes used involve such irregularities.

As has already been seen in connection with the determination of normal hours of work, such difficulties are sometimes overcome by allowing the normal hours to be calculated as an average over periods of varying length; other methods are also used in other cases. It therefore becomes necessary to refer to the various systems adopted in this connection in order to facilitate a comparison of the methods laid down for industries in which operations are irregular. The following methods will therefore be considered in turn:

- (1) Exemption from the general regulations on hours of work of classes of undertakings with irregular operations, or the introduction of special exceptions for them;
- (2) Calculation of hours of work as an average over long periods;

- (3) Making up time lost through the irregular operation of the undertaking, by means of extensions of hours over long periods;
- (4) Application of special overtime systems.

§ 1. — Exemptions and Exceptions

In a number of countries the laws or regulations exclude, or provide for the possibility of excluding, certain industries from their scope or allow exceptions to the general rules.

1. EXEMPTIONS PRESCRIBED BY LAW

In *Sweden* certain specified types of work are excluded from the scope of the regulations from the very outset. For example, the Act does not apply to work of so irregular a nature that it cannot be carried out at fixed hours or to certain work connected with forestry and agriculture such as the charcoal-burning, timber-floating, peat extraction, building work for agriculture, gardening.

In *Switzerland*, in the Canton of Valais, hotels which are open only during one or two seasons in the year are not covered by the hours of work regulations. The same is true of seasonal industries and trades for which special regulations are laid down.

2. POSSIBILITY OF EXEMPTIONS ALLOWED BY LAW

In *Finland* the Government may authorise exemption from the provisions of the Act for not more than one year when its enforcement is impracticable on account of technical working conditions, seasonal requirements or other unavoidable circumstances. In virtue of these powers, the Government, on the report of a special committee composed of representatives of the Government, the employers and the workers, issues an annual list of the classes of work to which the Act does not apply. Those types of work which fall within the groups at present under consideration include building operations in rural districts, work connected with forestry and in particular the transport and floating of timber, and the postal services.

In *Ireland* the competent Minister, after consultation with representatives of the workers and employers concerned, may by

Order make regulations to exclude certain forms of industrial work from the application of one or more provisions of the Act. Further, again after consulting the employers' and workers' representatives, he may introduce special regulations for the excluded industries. It should be noted that the Orders issued by the Minister may reduce as well as extend hours of work. On several occasions the Minister has used these powers and has issued special regulations, e.g., for the turf industry and creameries.

3. EXCEPTIONS TO NORMAL HOURS OF WORK

The regulations in many countries simply provide for the possibility of introducing exceptions to the normal hours' scheme. In *Austria* the Ministry of Social Administration, after consultation with the employers' and workers' organisations and an advisory committee, may order such exceptions for specified groups of undertakings ¹.

In *Mexico* administrative regulations, issued after consultation with the employers' and workers' organisations concerned, may adapt working hours to the special requirements of certain industries or classes of work.

In *Sweden* and the *United States* (Pennsylvania) regulations making exceptions may be issued when the strict enforcement of the law would cause serious interference with the normal working of the undertaking (Sweden) or unnecessary hardship (Pennsylvania). While in Pennsylvania it is the competent Department which takes the necessary steps, in Sweden it is the Labour Council or, in certain circumstances, the Crown after consultation with the Labour Council.

In *Australia* (Tasmania) the competent Minister has power under the Factories Act to authorise exceptions for a maximum period of two months.

In *Italy* the Minister of Corporations, after consultation with the trade organisations (except in case of special or urgent necessity), may authorise a working week of 48 hours for specified classes of undertakings, specified zones or single undertakings when special circumstances make it impossible to observe the limits laid down by the 40-hour week. In *New Zealand*, too, the Acts prescribing the

¹ See below, pp. 318 and 334.

40-hour week allows certain exceptions, for the Court of Conciliation and Arbitration may extend working hours in any industry where in its opinion it would be impracticable to carry on the industry efficiently if hours were limited to 40.

Again, the technical or seasonal character of the work may be the chief if not the only reason for introducing exceptions. In *Belgium* a Royal Order may authorise work in excess of the normal limits for industries or branches of industries in which the time necessary for the completion of the work cannot be precisely determined by reason of the nature of the work; the Order may be issued only after consultation with the employers' and workers' organisations concerned and with the various councils competent to deal with such matters. Orders of this kind have already been promulgated for garages hiring out motor-cars, glucose works, undertakings manufacturing concrete blocks and artificial stone, the artificial wool industry, and the printing and kindred trades.

In the *Union of South Africa* normal working hours do not apply in factories where the supply of raw material is intermittent or subject to seasonal variation or where raw material is liable to deterioration if untreated, or where continuous processes or exigencies of the business render special hours necessary during certain times or seasons. Different limits of hours of work in these factories may, however, be fixed by collective agreements which have been rendered compulsory by wage determinations.

In the *United States* (Minnesota) the Industrial Committee may authorise an employer to employ his staff more than six days a week when an extraordinary pressure of work so requires. This authorisation may be granted only for a seasonal period and for not more than three consecutive months a year.

In *Italy* authorisation may be granted under the Legislative Decree of 29 May 1937 to extend the working day up to a maximum of 10 hours in seasonal undertakings in which an 8-hour day or a 40-hour week cannot be applied. Pending the issue of a Decree by the Minister of Corporations specifying these undertakings and the periods during which hours may be extended, the schedule established by the 1923 Decree has been maintained. It includes, among others, the building industry, hand-made brickworks, mines and quarries in the mountains, salt mines, undertakings using only water power, numerous branches of the food and drink industry, millinery trades, etc. The period during which extensions may be authorised varies from two to six months, but in most cases it is fixed at three or four months.

In *Turkey* a maximum working day of 11 hours is authorised during the export season for workers handling grapes and figs, with the result that a maximum of 77 hours may be worked during the seven days of the week.

§ 2. — Calculation of Hours of Work as an Average

Another method of allowing for the irregular operation of certain undertakings is to enable the normal hours of work to be calculated as an average over a period exceeding one week; by this means the hours worked in the course of any one week may be extended though the normal limit, calculated as an average, is observed. The provisions respecting this method of calculation have been analysed in the preceding Chapter, to which reference should be made. By way of comparison with other methods of allowing for the irregular operations of certain undertakings, certain features of those averaging regulations which apply to such cases or of those which prescribe longer or shorter hours for particular months or seasons are indicated below.

1. NATURE OF REGULATIONS AND UNDERTAKINGS COVERED

The right to distribute working hours over long periods is recognised in a general manner by the laws or regulations of the following countries: *Belgium, Canada* (Alberta, British Columbia), *Colombia, Italy, Luxemburg, Mexico, Netherlands, Norway, Poland, Rumania, Sweden, Turkey, and Yugoslavia*. In these countries the application of the principle may be left to agreements between the parties directly concerned, as in *Mexico*, or to agreements and local custom (*Yugoslavia*), or to agreements concluded by the organisations concerned, as in *Luxemburg*. In some cases the regulations merely give a very general reason for the right which they confer: e.g. in *Canada*, if the strict application of normal working hours is impracticable; in *Colombia*, in exceptional cases where it is obviously indispensable; in the *Netherlands*, if the exception is desirable. But in others they specify the industries in which the system may be applied. Thus industries affected by the seasons or the weather are mentioned in the regulations of *Belgium, Italy, Norway, Poland, Rumania, Sweden, and Turkey*. Technical reasons are also taken into consideration in *Belgium, Norway* (other circumstances), *Poland, and Rumania*.

In all these cases the regulations must specify the industries to which the special system thus provided is to apply. In some countries the right to average the hours of work or to fix different hours for the different seasons applies to industries specifically mentioned in a general law, as in *Spain*, or in Decrees issued under a general law, as in *Austria*, *France*, *Hungary*, or in collective agreements or arbitration awards governing hours in the industries in question, as in *Great Britain* (dyeing and bleaching), *Japan* (clothing, fans), *New Zealand* (butter and cheese making, preserving and allied trades, clothing trade), *United States* (textiles, retail trades), or in regulations having the same effect as collective agreements, as in *Germany* (collective rules). The nature of the industries covered proves that it is mainly reasons of a technical or seasonal character which make it necessary to issue special regulations.

Among the industries directly affected by the seasons and the weather are building, road construction, brick and tile works with open drying yards, open mines and quarries and those situated in the mountains, peat undertakings, industries using water or wind power, horticulture, sawmills, etc.

Other branches in which activity varies with the seasons include breweries, mineral water undertakings, the manufacture of artificial ice, health and tourist resorts, industrial and commercial undertakings dependent on such resorts, and, in particular, the clothing industry and its various branches.

Still another group is formed by the industries engaged in working up agricultural produce, such as the sugar industry, the preserving industry, distilleries, and certain handicrafts exercised in the country.

Undertakings which for technical reasons belong to the same category include certain branches of the textile industry such as the bleaching, dyeing and finishing of materials and yarn, slaughter-houses, and to some extent gas and electricity undertakings and the postal services.

2. PROCEDURE

The formalities with which the employer has to comply before being authorised to distribute working hours over a long period depend very much on the nature of the regulations. In many cases the system is laid down in collective agreements.

In *Austria* collective agreements for the building industry and

for quarrying and similar work may allow the working week to be increased up to 58 hours.

In some cases, the regulations definitely provide for certain extensions and the employer is left to make what use he wishes of them within the limits laid down, e.g. in *Switzerland* (Cantons of Basle Town and Ticino) for the building industry; in *Spain*, for certain handicrafts connected with agriculture. In *Austria* and *Italy* this applies under Decrees issued by the competent departments for several industries.

As a rule, the departmental Orders and similar instructions definitely state in what class of undertakings and in what conditions the system of averaging hours of work may be applied, besides stipulating that the organisations representing the employers and workers and, in some cases, the Labour Councils and similar bodies, must give their opinion or be called upon to take part in the necessary decision. This is the case in *Belgium, France, Ireland, Netherlands, Norway, Poland, and Sweden*.

In *Rumania* the authorisation of the labour inspector is necessary, but an appeal may be lodged against his decision with the competent Minister, in which case the Superior Labour Council is called upon to decide the case. In the *United States* (North Carolina), the extension of hours of work for seasonal work requires the permission of the Commissioner of Labor.

3. LIMITS

As the question of averaging hours of work was examined in the chapter relating to normal hours of work, it will be sufficient here to recall that the average weekly limits of hours are in all cases the same as the normal limits of hours when calculated over one week. The periods over which hours may be calculated may extend up to one year. In some cases, the regulations provide for a maximum number of hours which may be worked in any day or week. In addition, there are a few regulations which provide for different limits of normal hours of work at different times of the year. All these regulations are described in the preceding Chapter.

§ 3. — Making up Lost Time

Attention has already been called above to the opportunities granted by certain regulations for making up lost time. The following pages provide illustrations selected from the cases analysed in the pre-

ceding Chapter in which the employer is authorised during rush periods to make up time lost on account of the slack season, bad weather, or other natural causes. These regulations have some analogy with those just described in connection with the distribution of hours of work over several weeks.

The regulations in force in *Argentina, France, Greece, Italy, and Spain* authorise the making up of time lost to meet the irregular operation of certain undertakings.

As a rule extensions of this sort are subject to fairly strict limits. Under the *Argentine* regulations, the cases in which the working day may be extended to make up for time lost for reasons outside the worker's control and the length of such extensions are defined in special regulations. These regulations may be issued only after consultation with the representative trade organisations, and then only if there is agreement between the employers and workers and if good reasons exist for the extensions, and provided that the normal working day is not extended by more than 1 hour for such reason. Extra hours so worked do not give rise to an increase in wages.

In *France* the making up of lost time, when allowed by the Decrees issued in application of the 40-hour week Act, must always be authorised by the labour inspector and, in some cases, by a ministerial Order. As a rule the trade organisations concerned must be consulted. According to circumstances, the limits of the daily extension are fixed directly in the Order or by the labour inspector at 1 hour a day, and 2 hours a day in exceptional cases. The maximum overtime allowance is in most cases fixed at 100 to 125 hours. In industries in which stoppages of work during the slack season may be made up, this right may be suspended in cases of unemployment.

The right to make up lost time may be authorised for specified branches of certain industries. Thus the *French* Decrees relating to wholesale trade and to the retail trade other than the provision trade authorise the making up of lost time in branches affected by alternating busy and slack periods.

Furthermore, a French Decree of 21 December 1937 supplements the Decrees issued in application of the Act of 21 June 1936 concerning the 40-hour week by the following provisions:

"Orders shall be issued by the Minister of Labour to establish the list of industries and trades in which authorisation may be given for making up time lost on account of business fluctuations which are not of a periodical or seasonal character. These Orders, issued after consul-

tation with the employers' and workers' organisations concerned, shall fix at not more than 100 hours a year and 1 hour a day the amount of lost time that may be made up by staff employed during slack periods to the exclusion of workers engaged during a busy period.

" Heads of undertakings shall not be allowed to make use of this privilege unless they have previously agreed: (a) to wait one month before dismissing, on the ground that there is no further work for them, workers who have been employed in making up lost time, and (b) if after that period any of such staff are dismissed for want of work, to re-engage them in preference to others when additional workers from the same occupation are required within six months.

" This undertaking shall be incorporated in a collective agreement or in establishment rules, which shall also fix the conditions of re-engagement of such workers. The provisions of the establishment rules on this point shall be subject to the prior authorisation of the labour inspector."

In *Greece* the making up of lost time is authorised only for industries which by their nature are liable to be affected by weather conditions. The employer who wishes to make use of this privilege must notify the labour inspector. Working hours may not exceed 10 a day. The period during which time may be made up varies according to the amount of time lost. One lost working day must be made up within the 15 following days, and several lost days within a period of three weeks. But when the stoppage of work exceeds one week, the conditions under which lost time may be made up are fixed by the labour inspector. The Decree adds that the average hours of work during the period between the notification of the stoppage and the end of the time-limit fixed for the making up of time lost may in no case exceed 48 in the week.

According to the *Italian* Legislative Decree, collective agreements or in their absence Decrees issued by the Minister of Corporations may authorise the making up of lost time provided that not more than 1 extra hour is worked in any one day.

In *Spain* working hours may not be extended by more than 1 hour a day, and all time worked in excess of 52 hours a week is considered as overtime and paid as such.

§ 4. — Compensatory Time off for Additional Hours

For certain classes of workers and in narrowly defined cases, the *French* legislation permits compensatory time off to be granted for extensions of working hours on account of seasonal circumstances, in the form of holidays or shorter working hours during the

slack season or when business is quiet, subject to the necessary authorisation¹.

In *Germany* the execution of the Four-Year Plan has meant that the hours of work provisions have had to be applied with the utmost flexibility possible under the regulations. The competent authorities have been asked to ascertain, particularly for seasonal industries, how far extensions of working hours required at certain times can be compensated by corresponding reductions at other times, if need be by authorising an extension of the two-week period within which such compensation is now allowed.

On the other hand, the *Danish* Act for the restriction of overtime states that stoppages due to the slack season or bad weather must not be made an excuse for working overtime.

§ 5. — Remuneration at Increased Rates

As extensions of normal hours resulting from the distribution of hours of work over long periods or the making up of time lost during the slack season or for similar reasons are compensated by equivalent time off, they are not paid at higher rates. In *Belgium*, however, the Act requires the payment of the recognised higher rates for overtime even in cases of a different arrangement of working hours. This strict interpretation of the Act was confirmed by the Belgian Supreme Court of Appeal in a decision of 22 December 1930.

In countries where the averaging of hours or the making up of lost time is not allowed, the general regulations apply, so that any extension of normal working hours is deemed to be overtime and must be paid as such², in accordance with the provisions of the law.

In some countries, however, the regulations establish a special system for overtime worked in seasonal and similar industries or in certain of these industries. The general restrictions governing overtime are then sometimes applied with less rigidity and only certain specified extensions have to be paid at increased rates.

¹ This right applies to workers in the gas and electricity services of health and tourist resorts etc., to drivers of vehicles employed in the transport of products used for the manufacture of preserves, and to persons employed in the pressing and store houses in the champagne industry during the vintage.

² See also under "Overtime", p. 336.

1. SPECIAL OVERTIME FOR SEASONAL INDUSTRIES

In the *United States* (North Carolina) weekly hours may exceed 55 in seasonal industries during rush periods, provided hours in excess of 55 are paid at time and a half.

In the *U.S.S.R.*, when the natural and technical conditions of seasonal work require particularly intensive work during a certain time, hours of work may be extended for a specified period after agreement between the employer and the competent trade union and subject to a corresponding increase in wages. Among other things, this agreement must fix the length of the working day, the period during which overtime may be worked, and the rate of remuneration.

The *Chinese* regulations allow the employer to make arrangements with the trade union concerned for the working of overtime on account of seasonal fluctuations. Working hours may not exceed 12 in the day and the maximum amount of overtime permitted is 46 hours a month. Persons working overtime for such reasons must be paid at time and a third or time and two-thirds for the extra hours.

2. ADAPTATION OF THE GENERAL OVERTIME REGULATIONS TO SEASONAL INDUSTRIES

In certain countries some of the legal restrictions are waived for seasonal industries. In *Estonia* overtime may be worked between 1 April and 1 October without prior authorisation and regardless of the usual limits in peat works, brickworks, and the building industry, provided workers so employed are paid at the rate of time and a half.

In some cases an additional overtime allowance may be authorised for seasonal industries, for example, in *Austria* in a general manner, and in *Hungary* for workers employed in mills working for agricultural undertakings.

In *India* the Act allows a maximum working day of 11 hours and a maximum working week of 60 hours in seasonal factories, i.e. those which ordinarily work on not more than 180 days in the year; hours worked in excess of these limits must be paid at time and a half.

3. SPECIAL OVERTIME FOR SPECIFIED INDUSTRIES AND SPECIAL CASES

In *Austria* and *Spain* certain industries have the benefit of a special system. In *Austria* an overtime allowance of 120 hours a

year is granted for building workers, house painters, horticultural workers and market gardeners. For the last two of these occupations the *Spanish* regulations permit overtime during a period of three months of maximum activity, subject to authorisation from the competent authority.

For mines in which work depends on the season or weather, the *Austrian* Act authorises an overtime allowance of 180 hours a year, provided that not more than 2 extra hours are worked on any one day and that permission is obtained from the competent Ministry, which must consult the workers' organisations concerned. In *Spain* the competent Minister, after consultation with the joint boards and the competent section of the Labour Council, may authorise an extension of 1 hour a day and 6 hours a week in mines which on account of their situation or climatic conditions cannot be worked during more than 6 months in the year, provided increased rates of pay are fixed by the competent joint board.

Finally, special rates of pay may be established solely for certain extensions. Thus in *Canada* (Manitoba) working hours may be increased during the month of December to 9 in the day and 52 in the week provided that all hours in excess of 48 are considered as overtime.

In this connection it may be recalled that under some legislative provisions or collective agreements, work done on the eve of a public holiday or during Christmas or Easter week may give rise to specially paid extensions.

In rural districts workers employed by certain classes of craftsmen may be required to work more than 48 hours a week during the sowing and harvesting seasons. According to the *Austrian* Act, the working hours of such workers may not exceed 60 in the week, of which 6 are considered as overtime. In such cases in *Spain*, the working day may be extended to 12 hours, of which 4 are paid at overtime rates.

§ 6. — Overlapping Extensions

In *France*, in distilleries, the mineral water industry, the manufacture of artificial ice, etc., the following three methods of extending hours are possible: (1) the working week may be increased to 42 hours in case of exceptional and unforeseen pressure of work; (2) lost time may be made up by extensions granted under the conditions discussed above; (3) an extra overtime allowance of 30 hours a year may be granted when as a result of seasonal

fluctuations the ordinary allowance is exhausted, authorisation being given only after consultation with the employers' and workers' organisations concerned.

It may be mentioned in conclusion that in the *French* sugar industry the overtime allowance authorised by the Décret for this industry cannot be used by the employer during the field season, if hours of work are extended during this season with the intention of granting time off in compensation.

E. — OVERTIME

It is somewhat difficult to determine exactly the various categories of extensions included in the general notion of overtime, owing to the wide differences between the regulations of different States. For instance, certain extensions permitted by special provisions in one country may be included in the general conception of overtime in another.

A rapid survey of the cases in which overtime is prohibited is followed below by a study of extensions for economic reasons, and of extensions for unspecified reasons but having the common feature of remuneration at a higher rate than normal hours. The question of remuneration is dealt with in a separate paragraph for each of the two kinds of extension.

§ 1. — Prohibition of Overtime

The regulations of several countries prohibit the working of overtime. In *Canada* the Dominion legislation, like that of certain Provinces, permits overtime only in case of emergency or for seasonal industries. In *Denmark*, the Act of 7 May 1937 prohibits overtime in principle, permitting it only in certain special cases. In the *U.S.S.R.*, according to section 103 of the Labour Code of the *R.S.F.S.R.*, which applies also to the other republics of the Union, overtime is forbidden as a rule, except for urgent work on plant or work necessitated by technical requirements, and except in certain occupations ¹. In the *Union of South Africa* (Natal) the Shop Hours

¹ See under "Extensions on account of the Irregular Operation of the Undertakings" and "Extensions for Certain Categories of Commercial Establishments".

Ordinance forbids employers to work their staff overtime for special payment. In the *United States* the Federal Act of 1892 concerning public works and the laws of certain States permit overtime only in case of emergency or for seasonal industries, e.g. for mining, laundry work, electricity undertakings in Arizona; for mining, cement and plaster manufacture, and public works in Colorado; and in the general legislation of North Carolina.

In countries in which hours of work are regulated by means of collective agreements, these agreements sometimes prohibit overtime altogether save in cases of *force majeure*, etc., e.g. in the *United States* clothing industry. The legislative authorities of some countries appear to have taken the view that the needs of employers in times of special pressure of work can be met adequately by leaving them free to average hours over periods longer than the day or week. The legislation of *Uruguay* authorises extensions of daily hours of work, but not of weekly hours, even for work rendered urgent by technical requirements.

In *Cuba* the Decree permits the calculation of hours of work as an average over longer periods than the week, but does not authorise overtime; on the contrary, it lays down that where the performance of work is duly regulated, no worker may work more than 8 hours in every 24, so long as a sufficient additional staff is available.

§ 2. — Extensions for Economic Reasons

The legislation of most countries permits, under certain limiting conditions, the extension of hours of work for economic reasons or for reasons which, though stated in more general terms, include economic elements. Regulations of this nature, however, all restrict the recourse to overtime in a greater or lesser degree. Such restrictions may sometimes, as in the Danish Act of 7 May 1937, constitute the main purpose of the regulations.

These restrictions may relate to the reasons for the extension, the procedure to be followed for working overtime, the conditions on which it may be authorised, and the limits to be observed.

1. REASONS FOR EXTENSION

The reasons for the working of overtime may be defined in general terms, such as "economic reasons", as in *Germany*, or "the economic interests of the State", or "the need to increase

production ", as in *Turkey*. In *Denmark* the advisability of speeding up the productive process or augmenting output may, under certain conditions, be considered a valid reason for the authorisation of overtime.

More usually, however, the regulations lay stress on the exceptional nature of the extension: the existence of " certain circumstances ", as in the *Netherlands*, or of " special circumstances ", as in *Mexico* and *Sweden*, or of " unexpected occurrences ", as in *Bulgaria*. In *Luxemburg* workers may be required to work overtime only in exceptional cases.

The overtime must be " necessary " in *Estonia*, *Sweden* (for a second quota of extensions), and the *United States* (Tennessee Valley Authority). In *Argentina*, *Poland*, and *Portugal* the employer must prove the necessity of extending hours. In *Switzerland*, even in cases of proved necessity, the extension must be regarded as exceptional and temporary¹. The legislation of *Spain* emphasises the condition of " emergency ", while that of the *Netherlands* stipulates that overtime shall be allowed only in the case of establishments having to meet urgent requirements and unable to obtain previous authorisation. In *Lithuania* overtime is permitted only in exceptional and urgent cases.

In some countries the right to introduce overtime depends on whether it is in the general interest. In *Greece* the extensions of hours of work allowed in commerce must be intended to meet a public necessity; in *Estonia* a special quota of additional hours may be granted in exceptional cases when the interests of the industry urgently require this; in *Norway*, too, the general interest may justify the working of overtime. The legislation of *Spain* provides for extensions—apart from those allowed in cases of emergency—in undisputed cases of special necessity which affect the community.

The regulations of several countries state that the purpose of overtime must be to increase the output of the undertaking. Thus, in *Austria* an employer applying for an extension of hours must show that it is needed to meet an increased demand; in *Czechoslovakia* the Act provides that the extension must be required in the general interest or for other important reasons.

Finally, exceptional pressure of work is specified in the legislation of very many countries as a ground for working overtime: *Argentina*, *Belgium*, *Brazil* (commerce), *Colombia*, *France*, *Greece* (offices,

¹ As regards temporary extensions, see also below, under " Extensions of a General Character ".

banks, joint-stock companies), *Hungary, India, Ireland, Luxemburg, Norway, Netherlands, Rumania, Switzerland, and Yugoslavia.*

Sometimes it is stipulated that such overtime may be worked only during certain periods, as in *Ireland, the Netherlands, and Switzerland*, or in cases in which the pressure of work was unforeseen, as in *Belgium and Rumania.*

In *France*, overtime due to pressure of work is allowed only in the case of work which is urgent and exceptional.

2. PROCEDURE

(a) *Extensions permitted Automatically*

No special procedure for recourse to overtime need be followed under the regulations of *Brazil* (commerce)¹, and *Mexico*. In *Norway* normal daily hours may be exceeded only on one day at a time. In *Sweden* and in *Switzerland* (Canton of Basle Town, establishments other than factories) employers dispose freely of a first specified quota of overtime, further extensions being subject to special procedure.

As a general rule, the employer must notify the labour inspector when he has recourse to overtime without special authorisation.

(b) *Agreements*

An employer may not require a worker to work overtime if the worker's contract of employment stipulates that his consent must be obtained to extensions of his hours. Some collective agreements contain a special provision to this effect, stipulating also that the worker's refusal to work overtime shall not constitute a legitimate ground for his dismissal. In *Sweden* the Act leaves this question to be settled by agreements concluded between the interested parties, but calls upon employers to see that extensions do not result in overwork and sickness among the workers.

(i) *Individual Agreements*

Is the previous agreement of the interested parties sufficient to legalise the working of overtime? Such agreement is required by the law in *Denmark* and *Estonia*. In the former country an employer desiring to introduce overtime for certain workers must obtain the consent of the workers and if possible, of the workers' representative (in undertakings in which such a representative exists).

¹ See below, under "Extensions of a General Character", p. 332.

In *Estonia*, an employer may extend hours of work with the previous consent of the employees concerned on condition that he notifies the labour inspector.

In several countries, as will be seen later, agreement between the employer and his workers is required in addition to the permission of the competent administrative authority.

(ii) *Collective Agreements*

When hours are regulated by means of a collective agreement, the agreement also determines the conditions on which overtime may be authorised. The *Danish* Act permits the working of overtime when the employers' and workers' organisations consider it desirable, in view of special circumstances, to speed up the work or increase the output of any industry for a certain length of time ¹.

(c) *Authorisation*

As a rule, the employer must obtain the permission of the administrative authorities before introducing overtime.

(i) *Uniform Procedure*

The law may lay down a uniform procedure, the local authorities, the regional organ of the Department of Labour (*Turkey*), or the competent labour inspector being entrusted with all decisions regarding the authorisation of extensions; this is the case in *Austria*, *Colombia*, *Greece* (industry), *Poland*, and *Yugoslavia*.

In *France*, too, the Decrees relating to the application of the 40-hour week make the labour inspector responsible for deciding when overtime is to be permitted on grounds of exceptional pressure of work.

The legislation of *Germany* entrusts the same function to the labour inspector except in cases in which the labour trustee has issued collective rules regulating hours of work and overtime in the groups of undertakings concerned ².

In *Lithuania* the labour inspector decides upon the authorisation of overtime, but he may grant special authorisations for particular cases or general authorisations for specified periods. In the *Netherlands* there is a similar provision for industries having to meet urgent requirements.

Sometimes decisions on applications for permission to work

¹ See below, under "Extensions of a General Character".

² *Ibid.*

overtime are reserved to a higher authority. In *Belgium* and *Luxemburg* extensions for exceptional pressure of work must be authorised by Ministerial Order after the submission of a report by the labour inspector. In *Rumania*, too, the decision rests with the Minister of Labour, who consults the report of the competent inspector. In the *United States*, under the Walsh-Healy Act (concerning Government contracts), overtime must be authorised by the Federal Secretary of State for Labor. In *India* the decision rests with the Local Government, which may delegate this function to the chief labour inspector while reserving to itself the right of supervision. Finally, in *Ireland* undertakings faced with exceptional pressure of work may be temporarily excluded from the provisions governing hours of work by the Minister of Industry and Labour.

(ii) *Differentiated Procedure*

In several States, the procedure for the authorisation of overtime varies according as the application is made in respect of a single undertaking or of a whole class of undertakings, or according to the amount of overtime required, or according to both these factors taken together.

Individual or collective extensions. — In *Estonia*, whereas a single employer may introduce overtime after obtaining the consent of his staff, extensions of hours in several undertakings together may be effected only on the authorisation of the Director of the competent department of the Ministry, except in the case of extensions covering not more than three days, which may be authorised by the labour inspector.

While maintaining the distinction between the two types of extensions—individual and collective—the law may make a single authority responsible for decisions respecting both types. In *Spain* this competence belongs to the joint boards of workers and employers. In *Bulgaria*, although individual applications for extension are decided upon by the inspector or by the Minister of Commerce, Industry and Labour, extensions to be effected in a number of undertakings must be authorised by the Minister after consultation with the Superior Labour Council. In the *Netherlands* the power of decision is divided between the inspector and the Minister of Labour; in the case of extensions concerning a particular district the Minister may delegate his power to the competent inspector. The legislation of *Argentina* provides that the Minister of the Interior may make regulations adapted to the special needs of the various industries, branches of commerce, occupations, and regions, while

the authorities responsible for the administration of the Act (the authority varying according to the area concerned) decide upon individual applications. In the absence of regulations of the Minister of the Interior, these authorities also decide on collective extensions.

Extensions by instalments. — In *Norway*, *Sweden*, and *Switzerland* (Basle Town) employers are authorised to introduce extensions for short periods without formalities of any kind, but their prolongation beyond the limits of these periods requires authorisation. In the *Netherlands* the labour inspector decides on extensions lasting up to fourteen days, but must obtain the consent of the Director General of Labour before authorising longer or repeated periods of overtime. In other countries the local authorities may authorise extensions over short periods, while the higher or central authorities must take decisions respecting longer periods, e.g. in *Czechoslovakia*, *Hungary*, *Portugal*, *Switzerland* [Federal Act] ¹.

Combination of methods. — In certain countries, various methods are used in the authorisation of overtime and different authorities have competence according to the grounds of the application.

In the *Netherlands* the law limits progressively the right to work overtime, in proportion to the number of additional hours involved and of workers affected; in cases of emergency, only the Minister may decide the total duration of the extensions that an undertaking can apply during the period of one year. In *Switzerland* the power of decision rests, according to the length of the period of overtime envisaged, with the local, district, or cantonal authorities. The cantonal authorities alone are empowered to deal with applications for overtime for periods exceeding those laid down by law for cases of exceptional pressure of work.

The system adopted in *Sweden* is more complex. In view of special circumstances, a certain number of additional hours are permitted automatically to the employer, while a second quota may be granted him, in case of necessity, by the Labour Council; further, the Crown, after consultation with or on the proposal of the Labour Council, and with the consent of the national federations representing employers and workers, may authorise a whole branch of industry to make use of this second quota of overtime hours. The Labour Council also has competence to authorise certain extensions for relatively short periods or for work entailing particularly little effort.

¹ In this country overtime on the eves of public holidays must also be authorised by the central authorities.

(d) *Participation of the Interested Parties*

When the extension of hours is provided for by a collective agreement, the trade associations concerned themselves decide on the desirability of applying it. When provision is made for the intervention of the public authorities, the legislation of several countries provides for the participation of the employers' and workers' representatives. In *Rumania* the trade organisations must, wherever they exist, be consulted in each case; in *Greece* the Prefect may authorise extensions in commercial establishments, in cases of public necessity, on the joint application of the trade associations of the interested parties; in *Belgium* a Ministerial Order authorising overtime may be issued only after agreement has been reached between the employer and the organisations representing the majority of his workers or, in the absence of such organisations, the majority of the workers consulted directly; in *Switzerland* the authorisation of the extension of hours in cases of exceptional pressure of work is always dependent on the previous consent of the interested parties; in *Spain* the organisations of workers and employers are represented on the joint boards which decide on applications for overtime.

In other countries, only extensions for more or less prolonged periods must receive the assent of the interested parties; in *Estonia* the assent of the workers may be given through their representatives in the undertaking concerned.

The legislation of *France* provides that in certain industries (artificial ice, aerated waters, etc.) a second overtime quota may be granted after consultation with the organisations concerned.

In a few countries, certain bodies on which the interested parties are represented must be consulted, unless it is for them to take the actual decision. In *Hungary* the trade associations are consulted before the second quota of additional hours is granted. In *Portugal* the competent corporative institutions, containing representatives of the recognised trade associations, decide cases in which the extension applied for exceeds five days.

In *Sweden* the Labour Council, whose functions have been described above, is composed of seven members, of whom four are chosen from among persons nominated by the national organisations of employers and workers.

Finally, in several countries extensions generally affecting groups of undertakings may be authorised only with the consent of the trade associations. The previous consultation of these associations is required in such cases in the *Netherlands*. In *Argentina*, before

any regulations of general scope are issued under the Act, the workers' and employers' organisations must be consulted; in *Sweden* overtime may be worked in the whole of an industry only after it has been agreed to by the national federations representing employers and workers.

3. RESTRICTIONS IN CASE OF UNEMPLOYMENT

In addition to the grounds for the extension, the regulations may also specify certain conditions to be observed in every case in which an employer desires to introduce overtime. As a rule, the competent authority or the parties to the agreement (particularly in the case of collective agreements) must take the general situation of the undertaking into consideration before consenting to an extension of hours. When the permit is given by an administrative authority, the provisions of the law must be strictly observed. Some of the conditions imposed by law, relating to such questions as the form of the application and the observance of certain time-limits, are of small importance from the international point of view. But one that is of interest from this point of view is that which makes the authorisation of overtime dependent on the amount of labour available¹.

This provision may take either of two forms. It may stipulate that the state of the labour market must be taken into account in the granting of additional hours; or it may provide for the withdrawal of a permit already given.

(a) *Preliminary Condition*

The law may, in a very general way, make the extension of hours of work conditional upon the social and economic situation, e.g. in *Portugal*. In the *United States* (Tennessee Valley Authority) it is laid down in general terms that during periods of marked unemployment hours of work should be kept as low as is consistent with efficiency in production and reasonable minimum income.

Some texts are more precise, and stipulate that the state of the employment market and the amount of unemployment in the industry concerned must be examined before extensions of hours of work are authorised, e.g. in *Argentina* and *Switzerland*.

Finally, the legislation of some countries requires proof to be furnished that there is no unemployment, e.g. *Greece*, or that the

¹ See the corresponding paragraphs under "Extensions of a General Character".

employer has no other means of meeting the demand for his products and cannot engage additional staff, e.g. *Czechoslovakia, France, Greece*.

In *Cuba*, it may be added, the 8-hour day must be observed "so long as a sufficient staff is available".

(b) *Withdrawal of Permits*

The legislation of most countries provides for the possibility of withdrawing overtime permits already granted, especially when the circumstances on account of which it was given have changed. The legislation of the *Netherlands* provides that in such cases the trade organisations concerned may apply for the withdrawal of the permit.

In some countries, the law lays down explicitly that in the event of unemployment the competent authorities must reconsider cases in which overtime has been authorised.

In *Estonia* it is provided, with a view to combating unemployment, that the Government may prohibit the working of overtime during certain seasons or shorter periods, either generally or in certain branches of economic activity.

In *France* the Decrees for the application of the 40-hour week in the various branches of economic activity generally provide that extensions allowed on account of exceptional pressure of work may be suspended in case of unusual and prolonged unemployment, by Ministerial Order issued at the request of the workers' and employers' organisations concerned and (in most cases) after consultation with these bodies.

4. LIMITS

In some countries the authorities competent to authorise extensions of hours of work may also fix the limits to be observed, as in *India, Ireland, Latvia, Lithuania, Luxemburg, Portugal, United States* (Walsh-Healy Act).

When extensions are provided for in agreements, it is, of course, the agreements which must also fix the limits, as in *Denmark*.

As a general rule, however, the law fixes certain maximum limits, which may not be exceeded by the employers or administrative authorities even with the consent of the workers.

Only a daily limit is laid down in *Brazil* (commerce), 12 hours; *Bulgaria* (commerce), 10 hours; *Germany*, 10 hours; and *Spain* (commerce), 12 hours.

In *Bulgaria* (building industry) and *Greece* (commerce), the

working day may be extended by 2 hours in case of public necessity.

The length of the extension may be limited on both a daily and a weekly basis. In *Mexico* it may not exceed 3 hours daily or be applied more than three times in a single week. In the *Netherlands* the working day may not exceed 44 hours in the case of exceptional pressure of work, while the working week may not exceed 62 hours (in bakeries hours of work may not be extended by more than 2 hours daily or 12 hours weekly).

Sometimes the regulations limit not only the extension itself but also the period during which it may be applied. In *Belgium* an extension may not exceed 2 hours daily and may not be applied for more than three months in the year. In *Rumania* the working day may be extended to 9 hours during not more than three months annually. In *Yugoslavia* the maximum extension is 2 hours daily for a continuous period of not longer than a week, but average weekly hours calculated over a period of four months may not exceed 60; this extension may be renewed three times.

In some countries the law fixes a maximum daily limit for working hours and the number of days in the year on which this maximum may be applied. In *Austria* the working day may reach a maximum of 10 hours on 30 days in the year, and on 60 days in the year for seasonal industries. In regulated industries in *Hungary* the working day may attain 10 hours on 60 days annually, a second quota of 60 days being granted in certain circumstances. In some industries the Decrees provide a first quota of overtime to be used during a period of 30 days, and a second quota to be used during a period of 90 days. In *Greece* daily extensions may be permitted up to 2 hours (except on Saturdays) on 60 days in the year. Extensions of 2 hours daily on the eve of public holidays are also allowed up to a total of 120 hours annually. In *Turkey* hours may be extended by not more than 3 daily; overtime may be worked on not more than 90 days a year.

In other countries the number of hours of overtime is limited both annually and monthly or daily. In *Argentina* the monthly maximum of overtime hours is 30, and the annual maximum 200. In *Spain* the monthly maximum is 50 hours for individual undertakings or for whole classes of undertakings, and the annual maximum is 120 hours for the former and 240 hours for the latter. In *Sweden* the employer is entitled automatically to a maximum of 48 additional hours in a period of four weeks, the total number of additional hours worked in the year not to exceed 200; 150 further additional hours may also be granted.

In *Poland* the maximum extension is 4 hours daily and 120 hours annually. In *Estonia* it is 2 hours daily and 75 hours annually, a second quota of 2 hours daily and 100 hours annually being obtainable in certain circumstances.

In *France* the Decrees dealing with the various branches of economic activity follow the same lines. The maximum daily extension is generally 1 hour and sometimes 2 hours. The annual maximum varies between 30 and 100 hours, but is in most cases fixed at 75 hours.

In a last group of countries the different systems of limitation are combined. In the *Netherlands*, in industries having to meet urgent requirements, the extension, which may be authorised in advance for a period of one year, is limited by daily, weekly, and annual maxima: on 60 days in the year daily hours may attain 11 on condition that the weekly limit does not exceed 55.

In *Czechoslovakia*, *Norway*, and *Switzerland* extensions are graded. In *Czechoslovakia* the Act lays down two scales: the first provides for daily extensions of 2 hours up to a maximum period of four weeks, and the second an additional extension of 2 hours for a period of 16 weeks. There is an annual maximum of 240 hours.

In *Norway* extensions up to 10 hours weekly are permitted automatically. Extensions amounting to 15 hours weekly, however, are subject to authorisation, which may be given for a total of 6 months in the year. The total number of additional hours must in no case exceed 30 in any period of four weeks. For industries subject to seasonal influences, the annual maximum is 390 hours.

The Federal Act in *Switzerland* permits extensions up to 2 hours daily, only to be exceeded in cases of exceptional urgency. No single permit may refer to a period exceeding 20 days and no series of permits may cover an aggregate period of more than 80 days in the year. In cases of exceptional pressure of work a larger quota of additional hours may be authorised. A daily limit of 2 hours during a maximum period of 80 days in the year is provided in the Canton of Ticino. The system adopted in Basle Town differs from this only slightly: it permits an extension of 1 hour daily on 26 days in the year, and also the authorisation of 100 additional hours annually, on condition that the daily extension does not exceed 2 hours or that work ceases at 1 p.m. on the day when the half holiday is taken.

§ 3. — Extensions of a General Character

The legislation of a number of countries provides for the possibility of extending normal hours without specifying the grounds on which such extensions may be authorised. A study will here be made first of the procedure, if any, which must be followed by an employer desiring to have recourse to overtime, and secondly, of the conditions and limits to be observed when overtime is worked.

1. PROCEDURE

(a) *Extensions permitted automatically*

In some countries the employer is free to extend hours of work without fulfilling any formalities. This applies particularly to temporary extensions and extensions affecting only small groups of workers. In the case of extensions of a more general character the employer is usually bound to observe strict limits.

In *Sweden* the Act authorises extensions "in the case of work which is carried on only for a comparatively short time." In *Austria* an employer may extend hours for a period not exceeding three days in each month, on condition that he notifies the competent labour inspector. In *Germany* daily hours of work may be extended by 2 hours (but must not exceed 10 hours) on 30 days in each year, to be chosen freely by the employer.

In *Lithuania* the hours of a single worker or a small group of workers may be extended without previous authorisation. In *Denmark* certain workers may be called upon to work overtime if they are willing to do so or if their representative in the undertaking gives his consent. In *Estonia* a worker may work overtime for the purpose of replacing a colleague.

The legislation of some countries permits extensions, leaving the detailed conditions for each occupation to be regulated by collective agreements or arbitration awards. The Factories Acts of *Australia* (Queensland, Tasmania) and *New Zealand* authorise overtime without laying down conditions as regards grounds or special permission. The same is true in certain States of the *United States* (Florida, Indiana, Michigan, Minnesota, Mississippi, Oregon). In the *Union of South Africa* temporary extensions are allowed subject to their being in accordance with the provisions of collective agreements which have been declared binding or of decisions taken under the law relating to wages.

In *Ireland* and *Italy* an employer is ordinarily entitled to introduce overtime without obtaining special permission, though the law reserves to the competent authority the right to intervene subsequently under certain conditions (dealt with in a later section of this Report).

(b) *Agreements*

(i) *Individual Agreements*

In several countries the law makes general extensions of hours subject to the consent of the workers. The Decrees relating to industry and commerce in *Brazil* stipulate that employers and workers must agree upon extensions before they can be introduced. This applies also to *Finland*, as far as industry is concerned.

(ii) *Collective Agreements*

Extensions are frequently provided for in collective agreements. In the countries, e.g. *Great Britain*, *United States*, in which this method is used for the regulation of hours of work in general, it serves also for the regulation of overtime. With it may be classed, to some extent, the systems of arbitration and determination of conditions of employment in force in *Australia*, *Canada*, *New Zealand*, and the *Union of South Africa*.

Many collective agreements merely permit overtime while fixing special rates of remuneration for it or laying down certain limits. Others also prescribe special procedure, such as the previous submission of the case to the contracting trade union for its approval, e.g. in the *United States* (many agreements), or to the authority set up by the agreement, e.g. in *Great Britain* (Liverpool agreement for the building industry) and the *United States* (several agreements). Sometimes the procedure is imposed only in the case of extensions for more than a specified number of days, as in *Great Britain* in the building industry (national working rules for Scotland) and in furniture-making (agreement for London).

The law may be based in some measure on existing collective agreements. In *Brazil* the Decree regulating hours of work in industry authorises the extensions permitted by collective agreements.

(c) *Authorisation*

(i) *Authorisation by a Labour Inspector*

As a rule an employer wishing to extend hours must obtain previous permission, which may or may not be granted on request, according to the circumstances of the case. It is usually the labour

inspector who has competence to deal with applications. In *Chile* the labour inspectors decide which are the cases in which a permit should be given. In *Venezuela* the labour inspectors may authorise extensions applied for in writing by the heads of undertakings.

In *Finland* any additional quota of overtime over and above the overtime authorised by agreement must be approved by the labour inspector. The law of *Ireland* is somewhat similar, providing, in addition to the overtime which the employer can introduce freely, a further quota, for which special authorisation must be obtained from the Minister.

(ii) *Authorisation and Agreement*

The law of some countries, e.g. *Latvia* and *Chile*, requires both the authorisation of the labour inspector and agreement between the employer and workers concerned (*Latvia, Chile*). In *Yugoslavia* the workers employed in industrial and mining undertakings are entitled to vote by secret ballot when the question of introducing overtime arises; the consent of a majority of four-fifths is required, as well as the confirmation of the competent authority, before the extension can be introduced. For other types of undertakings the law requires the conclusion of a written agreement, and its ratification by the competent authority.

(iii) *Authorisation by a Higher or Special Authority*

In the *United States* (Walsh-Healy Act) the Secretary of Labor, and in *Ireland*, the Minister of Industry and Labour, may authorise the working of overtime.

In *Sweden* the Labour Council, on which the trade associations of the employers and workers are directly represented, was established by the Act for the purpose of supervising the application of hours of work regulations. This Council, composed of seven members, of whom four are chosen from among the nominees of the national organisations of employers and workers, may authorise exceptions to the normal hours regulations when it is satisfied, as a result of the declarations of one or more workers' associations or for some other reason, that the proposed extension is desired by the great majority of the workers. Further, when the most representative workers' and employers' federations are in agreement as to the desirability of an extension, the Crown may, on the proposal of or after consultation with the Labour Council, make an extension applicable to the whole of the industry or trade concerned.

In *Germany* extensions may be granted by collective rules. These

rules have taken the place of the former collective agreements, in virtue of the Act of 30 January 1934. The Labour Trustees, acting as the officers of the Government, draw up the rules after consultation with expert committees comprising representatives of the employers and workers concerned. Normal hours of work, as well as overtime, may be regulated in this way for groups of undertakings, subject to certain legal limits. Different standards may be fixed for different industries. The collective rules may even delegate to an employer the power of deciding whether or not overtime may be worked.

(iv) *Authorisation for Specified Industries*

In *Austria* hours of work in banks and credit institutions may be fixed by collective agreement, but may not exceed 56 per week. Weekly hours in excess of 48 must be remunerated at overtime rates.

In *Brazil*, in the cold-storage industry, the hours of certain groups of workers, specified in the regulations, may be raised to 10 per day in exceptional circumstances, on condition that weekly hours in excess of 48 and up to a maximum of 60 are remunerated at a higher rate than the normal hours.

2. CONDITIONS AND LIMITS

The application of extensions of a general character for which no special grounds are required by the law is subject to the observance of certain conditions and limits intended to afford the worker a certain minimum of protection.

(a) *General Provisions*

Conditions of this kind may be fixed in the course of the procedure which is usually prescribed for the employer introducing an extension. When the overtime is provided for in a collective agreement, the contracting parties may decide upon whatever measures they consider suitable. In a number of collective agreements in *Great Britain*, the contracting parties declare their disapproval of the systematic use of overtime and limit its duration, e.g. to 30 hours in 4 weeks. (In the engineering and shipbuilding industries, and in undertakings for the production and distribution of electricity regional and local agreements contain a great variety of restrictive provisions.) The same is true of certain arbitration awards and similar forms of regulation.

When it is provided that a certain authority shall intervene, this authority may fix whatever conditions it considers necessary. According to the law of *Ireland*, the Minister of Industry and Labour may make the authorisation of overtime subject to whatever conditions he thinks fit and specify them in the permit. In general, he has authority to make regulations prohibiting or restricting the use of overtime.

(b) *Suspension of the Authorisation of Overtime in Case of Unemployment*

In *Italy* the employer may introduce overtime only if it is impossible to meet requirements by engaging additional workers. He must notify the competent corporative inspector of the amount of overtime worked and of the reasons for which he has not engaged new workers. Except in cases of special or urgent necessity, the corporative inspectorate may, after consultation with the trade organisations, order the cessation or limitation of overtime, if it considers that the work could be done without it by the engagement of additional labour.

Several collective agreements and arbitration awards in force in *Australia* stipulate that the employer shall, as far as practicable, avoid introducing overtime when the trade union concerned is able to supply competent labour. Some lay down that no overtime may be worked unless it is impossible to perform the work by means of a system of shifts or by the engagement of additional staff. Under the Commonwealth awards for the building and metal trades, disputes must be submitted to a joint board of employers and workers, and, in the last resort, to the Court of Arbitration. The Queensland Industrial Conciliation and Arbitration Act authorises the Industrial Court to prohibit or restrict the working of overtime—notwithstanding the terms of any award or collective agreement—for the purpose of distributing the work available in an occupation so as to relieve unemployment or for any other purpose which appears to the Court good and sufficient.

In *Great Britain and Northern Ireland*, too, the North-East Lancashire and Belfast agreements for furniture making state that overtime, except in an emergency, is not to be worked whilst local eligible workers are unemployed. Similar provisions are contained in the collective agreement for the fur industry in the *United States*.

(c) *Limits*

No limit is provided in the legislation of *Australia* (Tasmania), *New Zealand* and the *United States* (Florida, Indiana, Michigan, Minnesota).

In several countries the law simply fixes a maximum length for daily extensions: e.g. in *Chile* (industry) and *Latvia* it is 2 hours; in the *United States* (Oregon) 3 hours.

In *Venezuela* daily hours of work may be extended by 2 hours on 100 days in the year; in *Yugoslavia*, in industry and mining, the law authorises a daily extension of, or 2 hours respectively during four months in the year; this extension is renewable. In commerce and handicrafts the extension may not exceed 1 or 2 hours daily according as the normal hours are 8 or 9 daily.

In *Italy* the number of additional hours must not exceed 2 per day or 12 per week, save in cases of special urgency, when these limits may be raised to a maximum of 14 hours weekly, provided that over a period of 9 weeks the weekly average does not exceed 12 hours.

The extensions are sometimes fixed in respect of longer periods than the week. In *Finland* the maximum length of the extension is 24 hours in a period of 2 weeks and 200 hours in the year, to which the addition of a further quota of 150 hours annually may be authorised by the labour inspector when required for the normal work of the undertaking. In *Ireland* the extension granted automatically is 2 hours daily, 12 hours weekly, and 36 hours in 4 weeks, but may not exceed 240 hours annually. The Minister of Industry and Labour may, however, authorise certain additional hours to be worked subject to such conditions and limitations as he may consider proper.

Another method is to fix a maximum limit for total hours of work. The legislation of *Germany* fixes a maximum working day of 10 hours—which may, however, be exceeded in exceptional circumstances on the authorisation of the labour inspector (who must specify the duration of the exception) when the public interest requires it. The same limit exists in *Chile* for salaried employees.

In *Austria* weekly hours of work in banks are 56, which include 8 hours' overtime. In *Brazil* the hours of industrial workers are limited to 10 per day and 60 per week.

§ 4. — Remuneration of Overtime

Overtime is remunerated at an increased rate, which is intended to discourage its excessive use and to compensate the extra effort

of the worker. Special attention will be given here to the remuneration of overtime worked for general and economic reasons, but the conditions appertaining to extensions of this kind are frequently identical with those attaching to other extensions for which special rates of remuneration are provided.

The points considered below are the various methods of fixing rates of remuneration, the conditions under which workers are entitled to remuneration, and the form of the remuneration.

1. FIXING OF THE RATE OF REMUNERATION

The law of some countries contains no provisions relating to the remuneration of overtime (*Lithuania, the Netherlands, Sweden*). This does not mean, however, that overtime is not paid at a special rate, but simply that the authority competent to authorise overtime is left free in the matter of its remuneration, as are also the contracting parties in cases in which overtime is allowed by agreement.

As a rule the remuneration is fixed in money. In *Denmark* the Act of 7 May 1937 prescribes, in addition to such remuneration, that overtime shall be compensated by equivalent time off during normal hours. A collective agreement concluded between the organisations concerned and approved by the Minister of Social Affairs, however, may provide for exceptions to this rule on condition that it regulates the whole question of remuneration in a satisfactory manner¹.

In the *United States* the collective agreements for petroleum refining and newspaper printing provide for no other remuneration than time off equivalent to the overtime worked.

In the same country, the Florida Act establishing the 10-hour day provides for the special remuneration of all hours in excess of 10 unless there be a written provision to the contrary. On the other hand, the Michigan legislation permits the payment of wages at the ordinary rate unless a provision to the contrary exists.

When collective agreements or arbitration awards constitute the basis or the essential part of the regulations (*Australia, Canada, Great Britain, New Zealand, Union of South Africa, United States*) and when they authorise extensions of hours, they also deal with the question of remuneration. Even when an Act contains general provisions on this subject, it sometimes leaves it to collective agree-

¹ See above, under "Extensions on account of Shortage of Skilled Labour, Regulation by Industry".

ments to fix rates of overtime pay or to fix higher rates than it establishes.

The legislation of several countries thus goes no further than to impose on employers the obligation to remunerate overtime at a special rate, e.g. in *Brazil*, *Czechoslovakia*, and the *United States* (Indiana, Minnesota), or to refer to the rates fixed by collective agreement, as in *Denmark* and *Italy*, or again to lay down certain rules to be observed in the drafting of these agreements as in *Brazil*, where in the cold storage industry agreements must be written and approved by the competent authority and in pharmacies must be written.

In *Switzerland* (Ticino) the law leaves it to collective agreements to determine the conditions of remuneration of overtime, and lays down special rates only for cases in which no agreement has been concluded.

In *Germany* the law requires the payment of suitable remuneration, and states that time-and-a-quarter rates are deemed to be suitable unless the interested parties have agreed otherwise, or unless the Minister of Labour or the Labour Trustee decides otherwise, or unless special circumstances justify a different arrangement. In *Austria* the Act fixes the minimum rate of overtime pay at time and a quarter, but permits other arrangements by collective agreement.

In other countries the law prescribes the payment of minimum rates, admitting exceptions only when favourable to the workers.

2. CONDITIONS OF REMUNERATION

There is no space here to go into all the details of the problem of the remuneration of overtime; only the more important questions can be dealt with. No attempt will be made to ascertain whether, in order that the workers may be entitled to overtime rates, the employer must have ordered the extension; whether the overtime ordered and performed must be in conformity with the law; whether, in the case of short time, every extension must be remunerated irrespective of whether normal hours have been exceeded; or whether it is legitimate to provide in advance for a general payment, in the form of an increase in wages, to cover overtime.

From what moment is the worker entitled to demand the rate of pay stipulated for overtime? In order to answer this question it will be necessary to examine the following points, which are closely related to it:

- (i) What are the normal hours of work, which constitute the base from which overtime must be reckoned ?
- (ii) Are overtime hours calculated as an extension of the working day or working week, or of some longer period ?

It is not easy to give a general reply to these questions. Very often the laws and regulations contain no indication, not only because the question of remuneration is not always regulated, but also because, even when it is, the regulation sometimes consists only in the determination of rates of overtime pay. Even when legislation defines overtime by reference to normal hours, doubts may arise in the application of the rule to any particular case. Very frequently, therefore, the problem is one of interpreting the law—a subject into which it is impossible to go here. However, the collective agreements, arbitration awards, and similar systems of regulation quite often go into detail on the points in question; but their provisions tend to vary with the different activities covered.

Subject to the difficulties referred to above an attempt will be made to group the different systems of regulation as far as such classification is possible. The subject of the fixing of the length of normal hours was dealt with in another chapter, but it should be noted here that certain extensions for intermittent work are sometimes included in the daily hours of work, as is occasionally also the case with preparatory and complementary work, e.g. in *Hungary, Italy and Norway*. In these cases the additional hours of the workers concerned are calculated with reference to the hours thus extended.

(a) *Remuneration calculated with Reference to the Normal Working Day*

The legislation of several countries provides for an increased rate of pay for extensions of normal hours. This is so in *Estonia*, where the Act provides even for the case of the worker who, in virtue of a special contract, has a working day of less than 8 hours. In *Colombia* and *Lithuania* hours of work exceeding the normal hours, fixed by law at 8 per day, must be remunerated at an increased rate. In *Switzerland* the Federal Factory Act lays down that extensions or normal hours of work must be paid at an increased rate.

In other countries, e.g. *Australia, Great Britain, and New Zealand*, collective agreements generally stipulate that overtime must be calculated on a daily basis, and that the normal hours must be

worked in full (save in cases of justified absence—on account of sickness, for instance).

In *Austria* the Act provides that additional hours must be calculated on a daily basis, but allows other methods of calculation to be introduced by collective agreements.

(b) *Remuneration calculated with Reference to the Normal Working Week*

The legislation of certain countries takes the week as the sole basis for the calculation of overtime. This is the case in *Hungary*, where hours in excess of 48, or in some cases 60, weekly are considered as overtime, in *Turkey*, where the weekly limit of normal hours is 48 or 56, and in *Chile* (salaried employees) where it is 48. In *Brazil*, too, overtime is calculated on a weekly basis (bakeries and the cold storage industry).

In *Denmark* several collective agreements stipulate that the part of the workers' wages corresponding to a part of the normal working week which has not been worked (except in the case of justified absence) shall be deducted from the sum paid in respect of overtime.

Italy, India and Ireland have a cumulative system.

In *Italy* the Decree of 29 May 1937 establishing the 40-hour week in industry provides two methods, one to be used in cases in which normal hours are between 40 and 48, and the other for cases in which they are 48 or more. If the overtime is additional to normal hours of work (8 hours daily and 40 hours weekly, or other hours fixed by the competent Minister or inspector) and if the total hours do not exceed 8 per day or 48 per week, the employer must pay in to a special Unemployment Fund a contribution equal to 10 per cent. of the wages paid for overtime. In cases in which collective agreements stipulate that the workers doing additional hours must be paid at an increased rate, this provision does not apply. When, on the other hand, the working of overtime brings total hours of work up to a figure exceeding 8 per day or 48 per week, the hours worked beyond these limits must be paid at an increased rate determined by the agreements.

In *Ireland* a first increase in rates of pay is due when the daily limit of 9 hours is exceeded and a second increase, corresponding to the difference between the weekly overtime and the total daily overtime, when the weekly limit of 48 hours is exceeded. In *India* the law lays down that in non-seasonal industries, hours in excess of 10 per day must be remunerated at the rate of one-and-a-half

times the ordinary rate of pay, and those in excess of 54 per week at time-and-a-quarter rates.

(c) *Remuneration calculated with Reference to a Period
Longer than the Week*

In *Germany* hours of work may be distributed over a period of two weeks in order to compensate extensions effected on some days by reductions made on others, and all hours in excess of 96 are counted as overtime. In *Finland*, where hours of work can also be spread over a period of two weeks, any hours worked outside the normal time-table of the undertaking are usually regarded as overtime.

In other countries it is, in principle, the extension of the working day or working week which is taken to justify the special remuneration of overtime when the right to average the hours over a longer period is not used, as in industries subject to fluctuations of demand or in cases in which lost time may be made up, e.g. in *Belgium*, *Czechoslovakia* (hours exceeding 192 in 4 weeks), *France*, *Greece*, *Poland* (seasonal industries), and *Spain* (in the case of making up lost time, hours exceeding 52 per week)¹.

3. FORM OF REMUNERATION

Overtime pay is usually composed of two elements: (a) the basic wage (i.e. the normal wage); (b) a special allowance added to the basic wage and generally expressed as a percentage of it.

In some countries, however, legislation, collective agreements and similar forms of regulation state the minimum hourly rate of overtime pay without reference to normal wages (*Australia*, *Denmark*, *New Zealand*).

(a) *Normal Wages*

As a general rule, the hourly rate of normal wages forms the basis for the calculation of overtime pay. If the worker is paid by the hour, the rate is that agreed on; if by a longer period, the agreed rate must be reduced to an hourly basis. Several laws and regulations contain provisions regarding the number of days and hours to be taken into account in the calculation of hourly from other rates (*Argentina*, *Austria*, *Latvia*).

¹ Cf. "Extensions on account of the Irregular Operation of the Undertaking".

In the case of piece workers, the regulations usually provide that their overtime rates shall be calculated on the basis of their average earnings.

(b) *Increased Rates*

Minimum percentages of the normal rate are generally fixed by law for the overtime rate, so that the parties are free only to raise the rates if they wish, but not to lower them. Rates higher than the legal minima are in fact frequently stipulated in collective agreements.

(i) *Legislation*

A distinction must be drawn between laws which establish a uniform rate of increase and those which prescribe a variable rate.

Uniform rate. — Several national regulations fix a uniform rate for overtime pay. This is time and a quarter in *Bulgaria, Colombia, France, Greece, Hungary, Ireland, Luxemburg, Norway, Rumania, Switzerland* (Confederation and Canton of Basle Town), the *Union of South Africa*, and *Venezuela*.

In *Austria* and *Germany* the statutory increase of 25 per cent. on normal wages is not a minimum rate. In *Greece* the law prescribes for office work and work in banks and joint stock companies an increase of 30 per cent. In *Turkey* the rate of increase varies between 25 per cent. and 30 per cent.

Time-and-a-half rates are in force in *Chile, Estonia, Luxemburg* (salaried employees), *New Zealand, Portugal, United States* (Tennessee Valley Authority, Walsh-Healy Act, Oregon Act introducing the 10-hour day), and *Yugoslavia*.

The Labour Code of *Mexico* fixes a uniform rate of double time.

Variable rates. — In *India* and *Spain* the ordinary rate is time and a quarter, but when the working day exceeds 10 hours, the rate is higher (40 per cent. increase in Spain; time and a half in India for non-seasonal industries).

In *Australia* (Western Australia: Factories Act), *Belgium*, and *Poland*, time and a quarter must be paid for the first two hours of overtime and time and a half thereafter. In *Finland, Latvia*, and the *U.S.S.R.* the corresponding rates are time and a half and double time respectively.

Special rates of remuneration are sometimes due for work done on Sundays and public holidays. For example, in *Argentina* double time is paid (the usual overtime rate being time and a half), in *Belgium* double time, in *Latvia* time and three quarters, in *Poland*

time and a half, in *Switzerland* (Ticino) time and a half (usual overtime rate: time and a quarter).

(ii) *Collective Regulations*

In view of the importance of the part played in this field by collective agreements and similar types of regulation, it may be appropriate to give certain information about them, incomplete though this information must be and despite the great diversity in this respect between different industries and regions.

In *Australia*, *Canada*, *New Zealand*, and the *United States* overtime rates appear usually to be fixed at time and a half—in the *United States* sometimes at double time (building industry). In *Great Britain* the rates vary from industry to industry, being sometimes time and a quarter (e.g. building, engineering and furniture industries) and sometimes time and a half (e.g. electrical contracting).

In most of the regulations of these countries the rates are graduated up to double time according to the number of additional hours worked or the day on which they are worked (Saturday afternoon, Sunday, certain public holidays).

In *Denmark* the rates are time and a quarter, time and a third, time and a half or double time, according as normal hours are exceeded by 1, 2, 3 or more hours.

In *Czechoslovakia*, *Luxemburg* and *Sweden* the overtime rate stipulated in collective agreements is generally not less than time and a quarter, and in some industries variable rates are fixed.

In several collective rules in *Germany*, and also in a number of collective agreements in *Austria*, rates of less than time and a quarter are prescribed, though this may be considered the most common rate. Higher rates are usually stipulated for night work and Sunday work.

Finally, in *Australia*, *Great Britain*, and *New Zealand*, special compensation is provided for workers who are prevented, through overtime, from taking their meals at home.

F. — EXTENSIONS FOR CERTAIN CATEGORIES OF COMMERCIAL ESTABLISHMENTS

§ 1. — Shops

Consideration has already been given in another part of this Report to the legislative provisions that exclude shops or fix longer

hours for them. Extensions for preparatory or complementary work, and in cases of *force majeure*, etc., are the same as those allowed under the general regulations for all establishments. No further reference will be made to them here, nor will reference be made to temporary extensions such as those allowed for stocktaking, liquidation of stocks, etc., the provisions being the same for shops as those previously described and applying to commercial establishments as a whole.

This section will deal only with the overtime allowed specially for shops. A distinction will be drawn between the regulations applicable to all shops and those applying to certain classes of shops only.

1. REGULATIONS APPLICABLE TO ALL SHOPS

Some laws and regulations apply to all shops in the absence of any special regulations applying to some shops only.

(a) *Limitation of Overtime*

In the *Union of South Africa* (Cape Province, Natal, and Transvaal) exceptional extensions are allowed for urgent work, more especially in the case of stocktaking, etc. In Natal the Shop Hours Ordinance provides that, except for purposes of stocktaking, no shop assistant shall be employed for more than 48 hours in any one week, whether under a special contract or for a special payment.

In the *United States* collective agreements applicable in retail trade allow extensions during the Christmas and Easter seasons and while taking inventory, 4 hours' overtime being the commonest allowance at straight pay.

In *Finland* extensions are by law allowed only for urgent work, for instance during seasonal sales, stocktaking and the drawing up of balance sheets, to prevent the deterioration of perishable goods, or again if life is threatened, etc.

(b) *Overtime*

In *Bulgaria* and *Spain* shop assistants may be employed throughout the period during which the establishment is open, provided they receive the minimum pay prescribed for any overtime worked. Shop assistants may not be required to work more than 10 hours a day in Bulgaria, 12 hours in Spain.

In *Switzerland* (Canton of Valais), the law provides that overtime may be worked subject to the granting of a permit and to payment at time and a quarter. In *New Zealand* not more than 60 hours' overtime may be worked, under the Act, in any one year, subject to payment at time and a half, but not less than 1s. 6d. an hour.

In *Australia*, under the Factories and Shops Act of the State of Victoria, overtime in shops may not exceed 3 hours in the day on not more than 25 days in any one year, and notice must previously have been sent to the chief inspector. Time and a half is payable, but not less than 6d. an hour. Further, the employer must pay the shop assistant one shilling a day for tea money. In Western Australia the Factories and Shops Act allows working hours in shops to be extended by $2\frac{1}{2}$ hours on 12 days in six months, except Sundays and half-holidays, beyond the half-hour that shop assistants may be required to work after the closing hour. Under the clerks' (retail establishments) award, time and a half is payable for the first 2 hours' overtime and double time thereafter. Every hour worked in excess of 48 or after 6 p.m. between Monday and Friday is treated as overtime.

In the *Australian* State of Queensland and in the *Netherlands* the law provides for two overtime quotas. In *Queensland* the inspector may allow the occupier of any shop to detain his employees for a period not exceeding 3 hours in any one day beyond the ordinary working hours on not more than 40 days in each year. Overtime is to be paid for on the basis of time and a half, with a minimum payment of 6d. per hour. Further, in cases of sudden unforeseen pressure of work, overtime may be worked by the employees, without the written permission of the inspector, not more than 10 times in any one year, provided the 40 days' limit mentioned above is not exceeded. Here again the rate payable is time and a half. Under the shop assistants' award, an occupier may not require his employees to work overtime more than 12 times a year. A permit must previously have been obtained and payment may not be less than one shilling an hour.

In the *Netherlands* normal working hours are fixed by law at $9\frac{1}{2}$ in the day and 53 in the week. Some extensions are allowed, but not more than 11 hours may be worked in the day nor more than 62 in the week. Overtime may be worked within these limits to cope with arrears of work or special circumstances. The conditions laid down for the working of overtime are the same as those prescribed for other establishments.

2. REGULATIONS APPLICABLE TO SPECIFIED CLASSES OF SHOPS

It was pointed out in the chapter on normal hours of work that the number of permissible working hours may vary as between different classes of shops according to the size of the locality concerned, the number of assistants employed, the nature of the goods sold, etc.

(a) *Regulations varying according to Region*

Collective agreements and similar regulations often contain provisions varying according to region. In *Great Britain* some agreements applicable in large towns allow the working of overtime at rates ranging in different cases from time and a quarter to time and a half. In *Germany* the collective rules may, according to region, apply either in retail trade alone or in both wholesale and retail trade. In *Westphalia* the rules for retail shops allow not only a daily extension of 30 minutes for complementary work, with equivalent time off, but also overtime in excess of the 48 or 96 hours normally worked per week or fortnight; in no case may hours of work exceed 10 in the day. Time and a quarter is payable unless the overtime is worked at night, on Sunday or certain public holidays, when the rate is time and a half.

(b) *Food Shops*

The regulations may make special provision for food shops and shops selling other articles of prime necessity.

In *France*, under the Forty-hour Week Act, Decrees containing provisions, varying with the region or the size of the locality concerned have been issued for food shops on the one hand and shops selling other goods on the other. In food shops, overtime not exceeding 78 hours a year is allowed to meet exceptional pressure of work, provided working hours are not extended by more than $1\frac{1}{2}$ in the day. For other shops, the Decree provides that, in trades where there is an off-season, lost time may be made good to the extent of not more than 1 hour a day on not more than 60 days in the year. A permit must be obtained from the labour inspector, who must consult the employers' and workers' organisations concerned. Further, an annual overtime quota of 100 hours is provided to meet exceptional pressure of work, to which recourse may be had under the usual conditions.

While in *Austria* shops selling goods other than foodstuffs come under the general scheme, there are two special sets of regulations

applying to food shops, one for those situated in localities with a population of less than 6,000 tourist resorts, health resorts, and places of pilgrimage and the other for towns. In the former group hours of work in food shops may not exceed 60 in the week, hours worked in excess of 54 being treated as overtime. In towns the normal working hours for food shops are 54 in the week and 6 hours' overtime may be allowed under collective agreements.

In *Belgium* time off must be allowed in compensation for hours worked on Sundays in retail shops, butchers' shops and pastrycooks' shops.

(c) *Specified Classes of Shops*

Special overtime may be allowed in the case of some retail shops. In *Australia* (Queensland), hours worked after 8 p.m. in confectioners' shops are payable at the rate of 9d. an hour between 8 and 11 p.m., and 1s. after 11 p.m.

In *Austria* special overtime is allowed for hairdressers' and florists' shops. In hairdressers' shops hours worked in excess of 48 or 54 in the week, according to the scheme applying, must be paid for as overtime. The Act provides that overtime may be worked on 60 days in the year, but adds that 160 hours may be allowed under collective agreements provided hours of work do not exceed 10 in the day. Florists are automatically entitled to a special quota of 160 hours' overtime in addition to the general allowance provided for in the Act.

In *Brazil* hours of work may be increased by 2 in the day for hairdressers' shops. Further, on 10 days in the year, hours of work may be increased to 12 subject to the conclusion of a collective agreement to this effect providing for a special rate of pay. An allowance of 30 minutes without pay is granted for the completion of work in hand.

Similar provisions apply to bakeries. By collective agreement, concluded after consultation with the Department of Labour, hours of work may be extended, to 10 in the day on 30 days in the year and, exceptionally, to 12 in the day on five consecutive days. The agreement must fix the rate payable for hours worked in excess of 48 with reference to the average rate of wage for the six months preceding the conclusion of the agreement. On Saturdays, however, 12 hours may be worked without any increase in the rate of pay.

In *Yugoslavia* hours worked in excess of 60 in the week are by law treated as overtime. This provision applies to bakeries, butchers',

pork butchers', hairdressers' and independent tobacconists' shops and to the street sale of newspapers, drinks, fruit, and flowers.

In *Belgium* special extensions are allowed in the coal and firewood trade and for travel agencies, owing to the seasonal nature of the operations. Dealers in coal and firewood are allowed 100 hours' overtime per year to meet the exceptional pressure of work that is peculiar to their establishments. Travel agencies are, for the same reason, allowed 50 hours' overtime, normal hours of work in such establishments being $7\frac{1}{2}$, 8 or 9 in the day according to the month and the volume of business.

(d) *Chemists' Shops*

In some countries special provisions apply to chemists' shops.

In the *U.S.S.R.*, the regulations prescribed for health establishments also apply to chemists' shops¹. In *Switzerland* (Canton of Ticino) chemists' shops are covered by the regulations applying to all shops and by the general provisions concerning overtime.

In *Brazil*, *France*, and the *Netherlands* special overtime allowances are granted. The *Netherlands* regulations distinguish between the classes of persons employed in chemists' shops. Assistants may work overtime subject to limits of 10 hours a day and 55 hours a week, whereas the limits are 10 and 60 hours respectively for other employees.

In *Brazil* and *France* the regulations distinguish between the reasons for the extension. In *Brazil* normal hours of work may be extended by 30 minutes for attendance upon customers. Overtime may be stipulated in a written agreement, subject to payment at an increased rate, but the hours worked may not exceed 10 in the day or 60 in the week, except in the case of epidemics recognised as such by the competent authority, when 12 hours a day may be worked subject to payment at a special rate prescribed in a written agreement.

In *France* the Decree applicable to chemists' shops provides for urgent work, without special remuneration, in the event not only of an accident or disaster in the immediate neighbourhood, but also of an epidemic or exceptional pressure of work, in which last case time and a quarter is payable. In the case of an epidemic, the maximum number of hours of overtime is fixed by the administrative authority. The ordinary overtime quota is 75 hours, to be worked

¹ See below, p. 351.

during 75 days. In localities with a population of less than 10,000 the quota is 125 hours' overtime to be worked during 125 days.

In the *United States* (Colorado), in the event of an accident or epidemic, retail drug and medicine stores are exempted from the regulations.

§ 2. — Hotels, Restaurants and Similar Establishments

In some countries special overtime quotas are granted to hotels, restaurants, cafés, etc.

1. EXTENSION OF NORMAL HOURS OF WORK

The *German* collective rules (in Berlin, for instance) regulate normal hours of work and extensions together, overtime pay being included in the wages fixed.

The *Spanish* regulations allow a 10-hour day, without special remuneration, for hotel waiters and chambermaids living on the premises and attending to customers and rooms, whereas, for the rest of the staff, the normal working day of 8 hours may be extended by 4 hours, subject to payment at the overtime rate.

In the *United States* (New Mexico) weekly hours of work may be increased to 74 in emergencies. The overtime rate of time and a half is payable only for hours worked in excess of 70. In *Yugoslavia* hours worked in excess of 60 per week in cafés, restaurants, and hotels are treated as overtime and paid for as such.

2. SPECIAL OVERTIME

Employers in *Australia* (Queensland and Victoria), *Austria*, *Belgium*, *France* and *New Zealand* have a special overtime allowance. This amounts to 5 hours a week and 50 hours a year in *Belgium*. In *Austria* 10 hours' overtime may be worked per week without a permit. In *Australia* (Victoria) the inspector may allow 10 hours' overtime a week for six weeks in any one year, subject to payment of time-and-a-half rates and of 6d. a day tea money.

In *New Zealand* the overtime allowance is fixed at 120 hours a year. In restaurants and tea rooms employees are paid at a higher rate for hours worked in excess of 10 per day or 44 per week, or when the prescribed rest period of 11 hours is reduced. Time and a half is payable for the first 4 hours and double time thereafter.

In *Australia* (Queensland) overtime worked in confectioners' shops and restaurants after 8 p.m. must by law be paid for at the rate of 9d. an hour up till 11 p.m. and 1s. an hour thereafter.

In *Belgium* double time is payable for hours worked by female staff after 11 p.m. The same rate is payable during the season to hotel employees in seaside and health resorts for work done during the weekly rest, when the rest is postponed owing to the needs of the service. Under the Order the employer must as a rule give this rest period during the next fortnight.

In *France* employers are allowed, in the event of exceptional pressure of work, a maximum of 75 hours' overtime a year, to be spread over not more than 60 days, subject to payment of time-and-a-quarter rates. In no case may the uninterrupted rest period between two consecutive days' work be less than 10 hours, unless an exceptional permit is obtained from the factory inspector.

§ 3. — Hospitals and Similar Establishments

So far as such establishments come within the scope of regulations concerning hours of work, the problem of extensions is closely connected with that of normal hours:

The *Polish* regulations, for instance, explicitly state that extensions of working hours shall not be treated as overtime.

In *Spain* employees who work more than 48 hours in the week are paid at the normal rate or at some rate fixed by the competent joint board.

1. RESTRICTION OF OVERTIME

In the absence of special provisions, the general regulations concerning extensions of hours of work apply. In some cases, however, there is little recourse to overtime owing to the extension of normal hours. Thus the *German* collective rules for Berlin provide that overtime shall be avoided as far as possible. If for urgent reasons, however, overtime cannot be avoided, equivalent time off must be allowed during the same or the following week. Time and a quarter is payable only when time off cannot be given in compensation.

In *Argentina* the Decree applying the general regulations in Buenos Aires allow overtime only in operating theatres when a

surgical operation is being carried out, provided the employees concerned are paid at higher rates in accordance with the statutory provisions.

2. SPECIAL OVERTIME

In the *U.S.S.R.*, when normal hours of work do not exceed, or even fall short of, 8 in the day for certain classes of staff, overtime may be allowed by the competent authorities. When hours of work are averaged over the month, hours worked in excess of the normal monthly hours are treated as overtime. Time and a half is payable for the first 48 hours and double time thereafter.

In the *Netherlands* legal provisions is made for two kinds of extension. On the one hand, an employer may have overtime worked up to 2 hours a day, 12 hours a week, and 25 hours a quarter, either when, owing to special circumstances, working hours cannot be kept within the regular limits, or when the lives or welfare of patients are in danger. Daily hours of work may not, however, be extended by more than 2, and the number of hours worked per year by each employee may not exceed 55 times the number of working weeks. On the other hand, the competent labour inspector or, on appeal, the Minister, may authorise the extension of hours to 12 in the day and 72 in the week, provided the weekly average of 66 hours is maintained and the daily extension does not exceed 2 hours.

In *France* the Decree concerning hospitals and similar establishments provides for three methods of extending hours of work. In the first place, establishments that do not dismiss staff during periods of reduced activity may make up time lost during the off-season to the extent of 100 hours a year, provided the daily hours of work or duty are not increased by more than 1 hour. A permit must be obtained from the labour inspector, who must consult the employers' and workers' organisations concerned. Secondly, in the case of urgent work that must be done immediately to avoid threatening accidents or to organise rescue work, etc., or when urgent treatment must be given in the event of an exceptional and unforeseen increase in the number of sick or injured persons, overtime may be worked on any one day so far as is necessary to meet the situation and on the following days, to the extent of 2 hours a day. Finally, in the event of exceptional pressure of work, overtime not exceeding 1 hour a day and 50 hours a year may be worked without obtaining a permit, subject to the payment of time and a quarter.

§ 4. — Theatres and Other Places of Public Amusement

So far as theatres and other places of public amusement are covered by the regulations concerning hours of work, the problem of extensions may, as has been pointed out previously with reference to normal hours of work, coincide with that of the determination of such normal hours. Moreover, the general provisions concerning extensions, and more especially those concerning overtime that have just been examined, also apply to these establishments. In some countries, however, special provisions are in force.

In *Brazil* hours of work may be increased to 10 in the day and 60 in the week, subject to remuneration agreed upon in writing between employer and worker. If musicians have to work more than 4 hours at one performance, the additional hours must be paid for separately as provided in a written agreement. In the case of cinema operators, an extension of 2 hours may be agreed upon, subject to remuneration. In all these cases the daily maximum of 10 hours must be respected.

In the *U.S.S.R.*, in entertainment undertakings and in the cinema industry, the labour inspector may permit the working of overtime when two performances are given on the same day or one performance and a dress rehearsal.

In *Argentina* night-watchmen in such undertakings may work 12 hours in the day and 72 in the week.

G. — SUSPENSION OF THE REGULATIONS OR EXTENSION OF HOURS OF WORK FOR REASONS OF STATE

In a number of countries, the laws and regulations specify various circumstances in which, owing to the serious situation that may result for the community, normal hours of work cannot be strictly observed without some danger, and allow special exceptions in these cases ¹. Among the various measures for which

¹ Consideration is given here only to the provisions contained in the regulations concerning hours of work, but not to such exceptions as may be allowed, for reasons of State, in virtue of general laws and regulations or of the Constitution.

provision is made, a distinction may be drawn between two which in practice amount to much the same thing: the suspension of the regulations and the extension of hours of work. The reasons given for these exceptions are political (more especially military), economic, or connected with the general interest.

§ 1. — Suspension of the Regulations

In *Argentina*, *Belgium*, *Italy*, and *Rumania* the regulations may be suspended by the Government in the event of circumstances that constitute a danger to national safety and more especially in the case of war.

In *Belgium* and *Italy* provision is made for economic disturbances. In *Italy* the regulations may be suspended when the economic system of the country is in danger. In *Belgium* the regulations may be suspended when, in the opinion of the Higher Labour Council or the Higher Council of Industry and Commerce, it is necessary in the national interest to secure, by developing exports, the necessary foreign exchange for importing the means of subsistence.

In *India* and *Switzerland* suspension is limited to particular establishments. In *India* the Governor-General in Council may, in cases of public emergency, wholly or partially exempt a factory from the application of the Act for a given time. In *Switzerland*, when in the interests of national defence, orders must be filled promptly, the Federal Council may make the necessary provision for work in factories without being bound by the Factory Act.

§ 2. — Extensions

In view the circumstances mentioned above, various regulations make provision either for the extension of hours of work or for the granting of an overtime allowance, subject in most cases to payment at a higher rate.

1. GENERAL EXTENSIONS

In *Poland* the Government may prescribe an extension of working hours in cases of political or economic necessity, and in *Portugal* in the event of exceptional circumstances or when necessary in the

public interest. Whereas in Portugal extension must, under the Act, be expressly decided upon by the Government, in Poland the Council of Ministers may issue an Order, valid for not more than one year, after consulting the Chambers of Industry and Commerce and the employers' and workers' organisations¹. Under the Polish Act the extension is treated as overtime and paid for as such.

In *Switzerland*, apart from the circumstances mentioned above, hours of work may be extended where this is necessary in the public interest. In the Canton of Basle Town the Council of State may take such action owing to important circumstances or events. Under the Federal Factory Act, the Federal Council has power to allow the working of not more than 52 hours in the week in some industries, when this is justified by exceptional reasons, and more especially when an industry working the normal hours would be unable to resist competition due to the hours worked in other countries.

2. SPECIAL OVERTIME

In *Turkey* when preparations are being made for mobilisation, and during mobilisation, the Council of Ministers may, so far as an extension of working hours seems necessary in establishments engaged in work for national defence purposes, extend hours, according to the nature of the work and the extent of the need, up to the limit of the workers' maximum capacity. Workers employed in establishments controlled by the Ministry of National Defence are paid at normal rates, whereas workers in other establishments receive the higher rate prescribed for overtime.

In the *U.S.S.R.* persons in the workers' and peasants' militia, whose hours of work are regulated, have to work in excess of the normal hours without special remuneration. Other classes of workers must be paid at overtime rates. Overtime may be authorised only in the case of work that is absolutely necessary for the defence of the Republic or for the avoidance of public disasters and dangers. Time and a half is payable for the first two hours and double time thereafter. Workers and salaried employees employed by the Commissariat of Defence may likewise work overtime, subject to payment in accordance with the general rules.

In *China* and *Lithuania* employers are automatically allowed some overtime. In *China* persons employed on work of a military nature

¹ In both countries hours of work may be reduced under the same conditions.

or in public departments who have to work on rest days or public holidays are entitled to payment at rates ranging from time and a third to time and two-thirds.

In *Lithuania* no permit is required for overtime in undertakings working for purposes of national defence.

In *France* the Decrees issued in application of the 40-Hour Week Act allow a special overtime quota for work carried out in the interests of safety, of national defence, or of a public service. Hours of work may then be extended by a Government Order recognising the need for the exception. In each case the Minister ordering the work fixes the limits and other conditions for the extension, and more especially the remunération, in agreement with the Minister of Labour and with due regard for prevailing custom and the collective agreements in force.

Provision is made for work of public interest in *Sweden* and the *United States*. The regulations applicable in the *United States* to public works provide for the extension of working hours in emergencies affecting the public interest. In *Sweden* the Labour Council may, so far as is necessary, allow exceptions to the general regulations in the case of work that is of special public interest. Subject to the agreement of the federations representing the majority of the employers and workers, a Decree may be issued making this measure generally applicable.

In *Brazil*, *Czechoslovakia*, *Germany*, *Greece*, *Latvia*, *Norway*, and the *United States* the relevant regulations apply to all work without distinction, but lay special emphasis on the reasons of public interest for which the extension is granted.

In *Germany* the Act provides that the daily 2-hour limit for extensions may be exceeded when this is necessary in the general interest, provided special permission is obtained. In the *United States* (Mississippi) hours of work may be extended where public necessity requires.

In the other countries just mentioned, provision is made for a special overtime quota. In *Brazil*, under the Act applicable to commerce, the overtime quota may be used only in the national interest, and in *Czechoslovakia* and *Norway* only in the public interest. In *Latvia* overtime may be worked in cases of urgent necessity when necessary in the public interest. In *Greece*, under the Act concerning commerce, overtime not exceeding 2 hours a day may, at the request of the trade organisations, be worked for not more than one month in cases of public necessity.

In *Brazil* the employer is automatically entitled to the extension. In *Czechoslovakia* a permit must be obtained from the labour inspector. In *Greece* a permit may be granted by the Prefect after he has consulted the local authorities. In *Norway* a permit need only be obtained when the employer makes use of the over-time facilities for more than one day, and in *Latvia* for more than six days.

CHAPTER V

SUPERVISION OF THE APPLICATION OF THE REGULATIONS

Most of the regulations contain provisions for facilitating supervision of the hours actually worked. It is provided, for example, that time-tables must be posted up in the premises of the undertaking and that the employer must keep a register of the ordinary hours and overtime worked by his employees. In some cases the workers are required to have employment books.

All these documents must be available for inspection by the supervisory authorities, who are generally the factory inspectors. In one or two countries, such as *Belgium*, *Germany* and the *Netherlands*, these inspectors may act in conjunction with the police authorities.

In the event of an infringement of the regulations concerning hours of work, provision is made in every country for penalties, usually in the form of fines but also including imprisonment in the case of repeated or more serious offences.

An analysis is given below of the main provisions concerning supervision that exist in the national legislations.

A. — TIME-TABLES

The time-table, which is referred to in some laws as a roster, a schedule of service, or a notice fixing hours, and which is sometimes included in the works regulations, is intended to let the workers and employees in the undertaking know how hours of work and breaks are distributed over a specified period or in general. It is also intended to provide the supervisory authorities with a means of checking the distribution of hours for all the workers employed in the undertaking or in different parts of the undertaking and the rotation of shifts if any; the information is drawn up in tabular form to facilitate this task.

§ 1. — Contents of the Time-Table

1. HOURS OF BEGINNING AND ENDING WORK

Under the regulations of the following countries the time-table must indicate the hours at which the normal working day begins and ends:

Argentina (Eight-Hour Day Act of 12 September 1929 and administrative regulations of 16 January 1933); *Belgium* (Eight-Hour Day Act of 14 June 1921, and Works Regulations Act of 15 June 1896); *Brazil* (Decree of 4 May 1932 concerning hours of work in industry; Decree of 22 March 1932 concerning hours of work in commerce; Decrees regulating hours of work in hair-dressers' shops, the cold storage industry, chemists' shops, bakeries, places of amusement, pawnbrokers' shops and banks); *Bulgaria* (Workers Health and Safety Act of 1917; Legislative Decree of 5 September 1936 concerning contracts of employment; circular of the Department of Labour of 7 December 1936); *Chile* (Labour Code of 13 May 1931); *China* (Factories Act, 1932); *Colombia* (Decree of 26 April 1934); *Denmark* (Overtime Act of 7 May 1937); *Egypt* (Order of 6 February 1936); *Finland* (Eight-Hour Day Act of 27 November 1917); *France* (Forty-Hour Week Act of 21 June 1936, and Decrees containing administrative regulations); *Germany* (Act and Order for the organisation of national labour, 1934); *Greece* (Decrees of 8 April and 27 June 1932); *Hungary* (Industrial Code and Orders concerning the wood industry, upholstering, printing, boot making, the textile industry and the milling industry); *India* (Factories Act); *Iraq* (Labour Act of 1936); *Ireland* (Act of 1936 concerning conditions of employment); *Italy* (Decree of 10 September 1923 restricting the hours of work of workers and salaried employees in industrial and commercial undertakings of all kinds; Royal Legislative Decree of 29 May 1937 concerning the 40-hour week); *Latvia* (Industrial Labour Act); *Lithuania* (Hours of Work Act of 30 November 1919 and Act of 11 November 1933 concerning the employment of workers in industry); *Luxembourg* (Grand Ducal Order of 30 March 1932); *Mexico* (Federal Labour Act of 1931); *Netherlands* (Labour Act of 9 May 1935 and administrative regulations under certain sections of the Act for chemists' shops, hospitals, shops, offices, hotels and restaurants); *New Zealand* (Factories Act; Agreement concerning the hours of work of employees in licensed hotels, tea rooms and restaurants); *Portugal* (Legislative Decree of 24 August 1934 concerning hours

of work in industrial and commercial establishments, as amended by Legislative Decree of 24 August 1936); *Rumania* (Act of 9 April 1928, Part II; Royal Decree of 19 December 1932 to amend the administrative regulations under that Act); *Spain* (Decree of 1 July 1931 fixing the maximum hours of work at eight in the day); *Sweden* (Hours of Work Act of 16 May 1930); *Switzerland* (Federal Act and Order concerning work in factories); *Turkey* (Labour Code of 8 June 1936); *Union of South Africa* (Factories Act, 1918); *Uruguay* (Decree of 15 May 1935 containing administrative regulations under the Eight-Hour Day Act of 1915); *U.S.S.R.* (Code of Labour Laws of 1932; Standard Regulations of 17 December 1930); *Yugoslavia* (Workers Protection Act of 28 February 1922 and Industrial Act of 5 November 1931).

In *Australia* the labour legislation in force in New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia, and a large number of arbitration awards contain similar provisions.

In *Canada* the hours of work regulations of the Province of Alberta, British Columbia, Nova Scotia, Ontario and Saskatchewan make provision for time-tables indicating the hours at which work begins and ends.

The same is true of various *Swiss* Cantons (e.g. Basle Town: Act and Order of 1920; Ticino: Act of 1936).

In some countries the preparation of a time-table is compulsory only for certain categories of undertakings or of workers.

In *Austria* the Industrial Code provides that every factory and undertaking (*Gewerbeunternehmung*) employing more than 20 workers must have works' regulations indicating the time at which the normal working day begins and ends. The same is true of the Industrial Codes of *Czechoslovakia* and *Hungary* and the *German* Act and Order of 1934 for the organisation of national labour. In Germany it is provided that these regulations shall be in addition to the regular time-table. In *Czechoslovakia*, however, it is provided that in small undertakings employing fewer workers, the trade associations may come to an agreement to fix the beginning and end of the daily hours of work within the limits prescribed by the legislation.

The *Estonian* Hours of Work Act of 1931 provides that the exact length of the normal working period on each day must be indicated in the works regulations where such regulations are compulsory. In undertakings where regulations of this kind are not compulsory, the exact duration of the working day must be

indicated in the account book with which the employer must supply each worker.

In *Great Britain* the Factories Act of 1937 provides for notices indicating hours of work and authorised exceptions, but only in respect of the hours of work of women and young persons employed in an undertaking.

In *Japan* the Imperial Factories Order of 1926 stipulates that every factory normally employing more than 50 workers must have works regulations indicating the hours at which work begins and ends. In some small industrial undertakings provision for a time-table is made in agreements between the employers (e.g. in the velvet shearing factories of Saitama and Shizuoka, the cotton shearing factories of the Osaka district, the fabric finishing factories of the Shizuoka district, and the stocking and knitwear factories in the Osaka district).

Under the *Norwegian* Workers Protection Act of 19 June 1936, it is compulsory for all industrial and commercial establishments or offices employing more than 10 workers, or any others in which the inspector considers it necessary, to prepare time-tables indicating the hours of work.

There are also a few special cases. All establishments subject to the provisions of the *Bulgarian* Decree of 30 May 1936 concerning the hours of work in commercial establishments must have special tables indicating the hours of opening and closing during the summer and winter seasons, on working days and holidays.

The Shop Hours Ordinance of 1930 in the *Union of South Africa* (Cape of Good Hope) provides that all shops permitted to remain open until midnight must draw up a time-table at the beginning of each week indicating the hours of work of each employee for the next seven days.

In *Venezuela* the Labour Act of 10 July 1936 makes it compulsory for every employer, director or manager to post up a notice indicating the days and hours of rest, or to make them known in some other manner approved by the factory inspectorate.

In *Poland* it is not legally compulsory to draw up a time-table, but many collective agreements prescribe that this must be done.

2. BREAKS

The following regulations expressly state that breaks must be indicated in the time-table or in the regulations or notices serving as equivalents:

Argentina (Act of 12 September 1929 and Order of 16 January 1933); *Austria* (Industrial Code); *Belgium* (Acts of 15 June 1896 and 14 June 1921); *Brazil* (Decree of 22 March 1932 and Decrees concerning hairdressers' shops, the cold-storage industry, chemists' shops, bakeries, places of amusement, pawnbrokers' shops and banks); *Bulgaria* (Act of 1917 and circular of 7 December 1936); *Canada* (labour legislation of Alberta, British Columbia, Nova Scotia, Ontario and Saskatchewan); *China* (Act of 1932); *Colombia* (Decree of 26 April 1934); *Denmark* (Act of 7 May 1937); *Egypt* (Order of 6 February 1936); *Finland* (Acts of 27 November 1917 and 1 June 1922); *Germany* (Act and Order of 1934); *Great Britain* (Act of 1937, in respect of women and children); *Greece* (Decrees of 8 April and 27 June 1932); *Hungary* (Industrial Code, and Orders concerning the wood industry, upholstering, printing, boot making, the textile industry and the milling industry); *Ireland* (Conditions of Employment Act of 1936); *Italy* (Decree of 10 September 1923 and Royal Legislative Decree of 29 May 1937); *Japan* (Imperial Order of 1926); *Latvia* (Industrial Labour Act); *Lithuania* (Acts of 30 November 1919 and 11 November 1933); *Luxemburg* (Grand Ducal Order of 30 March 1932); *Mexico* (Federal Labour Act of 1931); *Netherlands* (Act of 9 May 1935 and Administrative Regulations); *Norway* (Act of 19 June 1936); *Portugal* (Legislative Decree of 24 August 1934 as amended on 24 August 1936); *Rumania* (Act of 9 April 1928, Part II, and Royal Decree of 19 December 1932); *Spain* (Decree of 1 July 1931); *Sweden* (Act of 16 May 1930); *Switzerland* (Federal Factories Act and Order and Cantonal Acts of Basle Town, 1920, and Ticino, 1936); *Uruguay* (Decree of 15 May 1935); *U.S.S.R.* (Code of Labour Laws of 1922 and Standard Regulations of 19 December 1930); *Venezuela* (Act of 16 July 1936); *Yugoslavia* (Acts of 28 February 1922 and 5 November 1931).

3. WEEKLY REST

According to a certain number of regulations, the day on which the weekly rest falls must be expressly mentioned in the timetable. This is the case under the following laws:

Argentina (Act of 12 September 1929); *Belgium* (Act of 15 June 1896); *Brazil* (Decree of 22 March 1932 and Decrees concerning hairdressers' shops, the cold storage industry, chemists' shops, bakeries, places of amusement, pawnbrokers' shops and banks); *Estonia* (Act of 1931); *Latvia* (Industrial Labour Act); *Lithuania*

(Act of 11 November 1933); *Netherlands* (Act of 9 May 1935 and administrative regulations); *New Zealand* (Factories Act); *Norway* (Act of 19 June 1936); *Portugal* (Legislative Decree of 24 August 1934 as amended on 24 August 1936); *Switzerland* (Federal Factories Act and Order).

In *Austria*, *Czechoslovakia* and *Hungary*, the works regulations prescribed by the Industrial Codes must indicate which are working days.

According to the provisions in force in *China* and *Japan* the works regulations must indicate public holidays.

In *India* the time-table prescribed by the Factories Act must indicate the periods during which workers are obliged to work.

In *Ireland* the Conditions of Employment Act of 1936 makes provision for a special notice indicating public holidays.

In *Spain* workers must be informed of the weekly rest day either by a notice or in some other appropriate method approved by the factory inspectorate.

4. WORK IN SHIFTS

In a large number of regulations it is stated that if work is performed in shifts the time-table must indicate the hours at which the spell of each shift begins and ends. This is the case in the following laws: *Argentina* (Act of 12 September 1929); *Belgium* (Act of 15 June 1896); *Brazil* (Decree of 22 March 1932 and Decree concerning work in hairdressers' shops); *Bulgaria* (Circular of 7 December 1936); *Chile* (Labour Code of 15 May 1931); *China* (Factories Act of 1932); *Colombia* (Decree of 26 April 1934); *Denmark* (Act of 7 May 1937); *Egypt* (Order of 6 February 1936); *France* (Act of 21 June 1936 and administrative regulations); *India* (Factories Act); *Ireland* (Conditions of Employment Act of 1936); *Japan* (Imperial Order of 1926); *Latvia* (Industrial Employment Act); *Luxemburg* (Grand Ducal Order of 30 March 1932); *Netherlands* (Act of 9 May 1935 and administrative regulations); *Spain* (Decree of 1 July 1931); *Sweden* (Act of 16 May 1930); *U.S.S.R.* (Code of Labour Laws of 1922).

In *Great Britain* the Act of 14 July 1936 provides that for the purpose of giving effect to the 1934 Convention concerning sheet glass works, a time-table must be drawn up indicating the system and number of shifts and the hours at which each shift begins and ends work.

§ 2. — Preparation and Alteration of the Time-Table

1. PERSONS OR BODIES RESPONSIBLE

Generally speaking, the legislation makes the employer responsible for drawing up or changing the time-table.

In *Argentina*, *Finland* and *Uruguay* the time-table must be drawn up in the form prescribed by the competent authorities.

The signature of the employer and the date must be appended to the time-table, according to the legislation of *Belgium* (Act of 16 June 1921), *Czechoslovakia*, *Italy*, the *Netherlands*, *Uruguay* and *Yugoslavia*.

In *Czechoslovakia* in small undertakings employing fewer than 20 workers the trade associations concerned may draw up the time-table within the limits laid down in the legislation.

In *France* the Decrees issued to give effect to the Act of 21 June 1936 provide that the time-table must be drawn up, dated and signed by the head of the undertaking or on his responsibility by a person appointed by him for that purpose. Before any change in the distribution of hours is put into effect, the time-table must be altered accordingly.

Under the *Mexican Federal Labour Act*, works regulations must be drawn up in accordance with the provisions of collective agreements, or, in the absence of such provisions, by the joint committee of representatives of workers and employers. Any change in the works regulations must be brought to the notice of the joint committee and of the competent conciliation and arbitration board.

In the *U.S.S.R.*, works regulations, which must be drawn up for undertakings employing five or more workers, are prepared jointly by the management and the local sections of the trade unions concerned. They are then approved by the factory inspector. The tables showing the rotation of shifts, which form part of the works regulations, are prepared by agreement between the management and the trade union body of the undertaking; the distribution of the workers over different groups, shifts, etc., is carried out by the management.

2. CONSULTATION OF THE WORKERS

In certain cases it is provided that the workers must take part in the preparation or alteration of the time-table.

In *Belgium* the Act of 15 June 1896 stipulates that no new works regulations or amendments to existing regulations can come into force until they have been posted up and brought to the notice of the workers. During a period of not less than eight days from the date on which the notice is posted up, the head of the undertaking must place at the disposal of the workers a register in which they can enter their comments, either individually or collectively through a representative. The workers may within the same period submit observations to the district factory inspector, who must transmit them to the head of the undertaking within three days.

In *Estonia* the workers' council set up in every industrial undertaking employing 25 or more workers under the Act of 10 July 1931 is responsible for protecting the workers' interests when works regulations are being drawn up.

According to the *Finnish* Act of 1 June 1922, the employer must give the workers an opportunity of making known through their chosen delegates, or in a general meeting, their views on any proposed regulations, which must be posted up in the work-place for not less than 14 days.

The *German* Act of 1934 provides that the confidential council must take part in preparing establishment rules; such a council must be set up in every undertaking normally employing 20 or more persons.

The Hours of Work Act of 30 November 1919 in *Lithuania* provides that the time-table will be drawn up by the employer in consultation with the workers.

In *Luxemburg* the hours prescribed in the time-table may not be changed in establishments subject to the provisions of the Grand Ducal Order of 8 May 1925 concerning workers' delegates in industrial undertakings until these delegates have first been informed.

The works regulations prescribed by the *Mexican* Federal Labour Act must be drawn up in accordance with the provisions of collective agreements, or, where no such provisions exist, by a joint committee of representatives of the employer and the workers. Within eight days of the date of being drafted, the regulations must be communicated to the secretary of the competent conciliation and arbitration board. If they are not in accordance with the statutory provisions, the trade union or trade unions of workers in the undertaking or the employer may request

the board to revise the regulations. The same procedure is followed when any change is made.

In *Norway* the works regulations prescribed by the Act of 19 June 1936 must be drawn up by the employer in consultation with five delegates elected by the staff and representing workers not holding positions of supervision or management.

In *Spain* the joint bodies must be informed before any change is made in the time-table.

According to the *Swiss* Factories Act, draft works regulations, which may, if the employer thinks fit, include a time-table, must be posted up in the workshop or distributed to the workers, who are permitted from two to four weeks to submit their observations. The same applies to any change in the regulations.

In the *U.S.S.R.* the tables showing the rotation of shifts are drawn up by agreement between the management and the trade union bodies in the undertaking, whereas works regulations are drawn up jointly by the management and the local sections of the trade unions.

The *Yugoslav* Act of 5 November 1931 prescribes that works regulations which are contrary to the law or published in an irregular manner must be corrected or replaced after consultation with the competent Chamber and the workers' organisation.

3. APPROVAL BY THE COMPETENT AUTHORITIES

In the great majority of the laws it is prescribed that the time-table and any change in the time-table must be approved by the competent authority.

Certain regulations simply lay down this rule and indicate the factory inspectorate as the competent authority. This is the case in *Argentina, Brazil, Chile, Estonia, France, India, Italy, Latvia, Lithuania, the Netherlands, Rumania, Spain* and *Sweden*.

In *Belgium* any new works regulations or amendments to old regulations must be submitted to the factory inspectorate and to the provincial council. In *Bulgaria* and *Greece* the time-table must be signed by the factory inspector, or by the police authorities in localities where there is no factory inspector. According to the regulations in force in *Iraq*, a copy of the time-table must be submitted to the Minister of Home Affairs. In *Japan* the prefect is responsible for approving time-tables and any changes in them. In *Switzerland* this task is left to the local authorities, in *Uruguay*

to the National Labour Institute, and in *Yugoslavia* to the lower administrative authorities.

Some laws contain more detailed provisions concerning the approval of time-tables.

In *Austria*, *Czechoslovakia* and *Hungary* the works regulations must be submitted to the competent authority not less than eight days before they are posted up; the authority approves the regulations if they contain nothing contrary to the legislation and returns them to the employer.

In *Finland* time-tables and any changes are communicated to the factory inspectorate; works regulations, together with any observations by the workers, must be transmitted to the Ministry of Social Affairs, which passes them to the competent factory inspector after approving them, provided there are no illegal clauses.

In *Germany* time-tables must be communicated to the authorities only when they affect women or young workers.

According to the Factories Act in *Great Britain*, any employer who wishes to take advantage of the exceptions permitted to the normal time-table and to the hours of work of women and young persons must notify the district factory inspector in the prescribed form not less than seven days before the date on which he intends to make use of these exceptions. The time-tables drawn up for sheet glass works in accordance with the Act of 1936 and any changes in these time-tables must be submitted to the factory inspector of the district in which the works are situated.

In *Mexico* the employer must, within eight days of drawing up works regulations, submit a copy to the secretary of the competent conciliation and arbitration board. If the regulations are not in accordance with the statutory provisions, the board withholds its approval until it has consulted the representatives of the trade union or unions of workers in the undertaking and the employer.

In *Norway* the works regulations must be transmitted to the factory inspection service, which communicates them with its comments to the Labour Council. The latter cannot approve the regulations unless they are in accordance with the legislation and contain no provisions that might be harmful to the workers.

The *Portuguese* regulations prescribe that in services in which various categories of staff are employed for whom several different time-tables must be drawn up, these time-tables or rosters must first be approved by the National Institute of Labour and Social Welfare or, in the case of establishments in the Lisbon district, by the Department of Labour and Corporations.

In *Turkey*, if works regulations are not approved by the competent authority within one month and if the employer has not been notified of any reasons for rejecting the regulations, they are considered as being approved and brought into force.

4. COMING INTO FORCE OF THE TIME-TABLE

Some laws prescribe a period after which the time-table comes into force.

In *Austria*, *Czechoslovakia* and *Hungary*, the Industrial Codes state that time-tables will come into force at the date they indicate.

In *Chile* and *Yugoslavia*, time-tables come into force 15 days after they were posted up, in *Finland* 14 days and in *Rumania* 24 hours.

According to the *German Act* of 1934, a time-table comes into force the day after it is posted up unless any other date is mentioned in the time-table itself.

In *Great Britain* the Act of 1936 prescribes that any change in the time-table in sheet glass works must be posted up not less than one month before the date on which it is proposed to introduce the change.

In the *Netherlands* time-tables come into force on the date they indicate or, failing such indication, on the date they bear.

§ 3. — Posting up the Time-Table

The regulations in force in the following countries prescribe that the time-table must be posted up in a prominent place in the undertaking easily accessible to the workers: *Argentina*, *Australia* (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia), *Austria*, *Belgium*, *Brazil*, *Bulgaria*, *Chile*, *China*, *Colombia*, *Czechoslovakia*, *Denmark*, *Egypt*, *Estonia*, *Finland*, *France*, *Germany*, *Greece*, *Hungary*, *India*, *Iraq*, *Ireland*, *Italy*, *Japan*, *Latvia*, *Lithuania*, *Luxemburg*, *Mexico*, the *Netherlands*, *New Zealand*, *Norway*, *Portugal*, *Rumania*, *Spain*, *Sweden*, *Switzerland*, *Turkey*, *Union of South Africa*, *Uruguay*, *U.S.S.R.*, *Venezuela* and *Yugoslavia*.

In *Australia* the arbitration awards usually contain provisions concerning the posting up of time-tables.

In *Great Britain* the Factories Act of 1937 prescribes that the time-table for all women and young persons employed in the

establishment must be posted up. In sheet glass works the posting up of the time-table for each shift is compulsory under the Act of 1936.

In *Italy* and *Yugoslavia* it is provided that when work is carried out in the open, the time-table must be posted up in the place in which wages are paid or in the office of the undertaking.

In *Japan* the agreements between employers in force in the velvet shearing factories in Saitama and Shizuoka, the cotton shearing factories and stocking and knitwear factories of the Osaka district and the fabric finishing factories of the Shizuoka district prescribe that time-tables must be posted up.

Some of the rules of employment in force in *Spain* refer to the provisions of the Decree of 1 July 1931 concerning the posting up of time-tables.

In *Switzerland*, according to the Act of Basle Town, the factory inspector may order the time-table to be posted up in individual undertakings or establishments, and the Department of Home Affairs may make similar orders for groups of undertakings or establishments. It is compulsory to post up the time-table in hospitals, nursing homes and convalescent homes.

In the *Union of South Africa* the texts of collective agreements fixing hours of work must be posted up in every workshop or work-place.

In the *United States*, provisions concerning both the posting and the content of time-tables vary in accordance with the diverse Federal and State regulations. They are therefore not dealt with in detail in this chapter.

B. — REGISTERS, CARDS AND EMPLOYMENT BOOKS

The registers or cards prescribed in a large number of regulations provide an additional means of keeping a check on the hours actually worked by workers in different establishments. In most cases the employer is responsible for keeping such registers, which must show the normal hours and the overtime worked by each worker employed in the establishment.

Certain regulations further provide that every worker must be supplied with an employment book in which complete data concerning his employment must be entered.

The registers or cards kept by the employer and the individual employment books must be shown to the supervisory authorities on request.

§ 1. — Registers, Cards, etc., to be kept by the Employer

1. CONTENTS OF THE REGISTERS OR CARDS

The employer is obliged under the regulations of the following countries to keep a register of all workers employed by him, indicating day by day the amount of overtime worked by each: *Argentina* (Act of 12 September 1929 and Order of 16 January 1933); *Australia* (New South Wales: Factories and Shops Act; Queensland: Factories and Shops Act; South Australia: Act of 1925 to amend the Industrial Code; Tasmania: Wages Board Act of 13 March 1924; Victoria: Factories and Shops Act of 12 February 1925; Western Australia: Factories and Shops Act of 31 December 1920); *Belgium* (Act of 14 June 1921); *Brazil* (Decrees of 22 March and 4 May 1932); *Canada* (labour laws of the Provinces of Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Quebec and Saskatchewan); *China* (Factories Act of 1932); *Cuba* (Decree of 11 November 1933 to amend the Decree of 19 October 1933); *Denmark* (Act of 7 May 1937); *Estonia* (Industrial Hours of Work Act of 1931); *Finland* (Acts of 27 November 1917 and 24 October 1919); *Germany* (Regulations under the Order of 1923 and the Act of 1927); *Greece* (Decree of 27 June 1932); *India* (Factories Act); *Latvia* (Industrial Employment Act); *Lithuania* (Act of 30 November 1919); *Luxemburg* (Grand Ducal Order of 30 March 1932); *Mexico* (Federal Labour Act of 1931); *New Zealand* (Factories Act, Shops and Offices Act and agreements concerning hotels, tea-rooms and restaurants); *Norway* (Act of 19 June 1937); *Poland* (Hours of Work Act of 1919); *Rumania* (Act of 9 April 1928, Part II); *Turkey* (Labour Code); *Union of South Africa* (Factories Act of 1918); *Uruguay* (Decree of 15 May 1935); *U.S.S.R.* (Code of Labour Laws of 1922); *Yugoslavia* (Act of 28 February 1922).

In some of the above-mentioned regulations it is expressly provided that the remuneration paid for overtime must be indicated (*Australia, Brazil, China, Finland, Greece, Latvia, New Zealand, Poland, Union of South Africa and U.S.S.R.*).

Certain regulations contain special provisions which are mentioned below.

In *Colombia* (Decree of 26 April 1934) and in *France* (legislation on the 40-hour week) the register is replaced by a notice which must be posted up in the undertaking and which in the former country indicates the hours of overtime and in the latter the temporary exceptions permitted by the factory inspector, the dates on which this permission was utilised and the duration of the exceptions.

In *Italy* the Decree of 10 September 1923 and the Royal Legislative Decree of 29 May 1937 make it compulsory for the employer to keep a register of wages, to be stamped by the Fascist National Institute for Accident Insurance, or, if undertaking is not subject to the legislation concerning compulsory insurance against industrial accidents and occupational diseases, by the Fascist National Institute of Social Welfare. The number of hours of overtime must be entered separately from the normal hours of work every day for each worker; the register must also contain a record for each worker and each pay period of the amount of the remuneration for overtime and for ordinary working hours. The corporative inspectorate may permit records to be kept in some equivalent manner.

In the *Netherlands* the Act of 9 May 1935 and the public administrative regulations under certain sections of that Act provide that the head or manager of every undertaking (factory, workshop, shop, office, chemist's shop, café, hotel or hospital establishment) must keep a register indicating the full name and date of birth of every worker employed, with a reference for each individual to the sheet of the schedule of shifts or of hours of service indicating the provisions governing his conditions of employment and especially his hours of work.

The *Swedish* Act of 16 May 1930 makes it compulsory for undertakings to keep registers of overtime worked by their employees under sections 6 and 7 of the Act (stoppage of work or danger to life, health or property due to the action of natural forces, an accident or other unforeseen circumstances, preparatory and supplementary work or special circumstances). The registers must be kept in the form prescribed by the Order of the Labour Council of 29 September 1930.

In *Switzerland* the Federal legislation concerning factories obliges every employer to keep a register of the persons employed by him, but it is not expressly stated whether this register must indicate the hours of overtime worked by each person.

In the *Union of South Africa* (Cape of Good Hope) every person

subject to the Shop Hours Ordinance of 1930 and employing one or more shop assistants must keep one or more registers of attendance in the form prescribed in the regulations.

As to the form of the registers, the regulations in the following countries provide that they must be kept in the form laid down by the competent authorities: *Brazil, China, Cuba, Estonia, Lithuania, New Zealand, Rumania, Sweden, Union of South Africa, and Uruguay.*

In certain countries regulations or Orders may be issued prescribing that a record of overtime be kept or that the register must be kept in a certain form.

In *Canada* the Dominion Act concerning fair wages and hours of labour in public works on Government contracts provides that the Governor-in-Council may issue regulations obliging employers to keep the necessary books and registers.

The *Chilian* Labour Code lays down that for the purposes of calculating overtime a special register must be kept in the form laid down by the administrative regulations. No such regulations have so far been issued.

According to the Conditions of Employment Act of 1936 in *Ireland*, the Minister may by Order make it compulsory for employers to keep such registers as are necessary in the opinion of the Minister for the enforcement of the Act, and may prescribe the form of these registers and the way in which they are to be kept and checked. So far no Order has been issued.

In *Venezuela* the Labour Act of 16 July 1936 provides that the Federal executive authorities will draw up regulations indicating the form in which registers of overtime must be kept by each establishment.

In the *United States* provisions for keeping registers are found in many Federal and State regulations. Due to their diversity they are not analysed in detail.

2. CHECKING OF REGISTERS, CARDS, ETC., BY THE COMPETENT AUTHORITY

The register which the employer is obliged to keep must be shown on request to the officials responsible for supervision. In the great majority of countries these are the factory inspectors. This is the case in the following countries: *Argentina, Australia* (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia), *Austria, Belgium, Brazil, Canada*

(Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Quebec and Saskatchewan), *China, Cuba, Denmark, Estonia, Finland, France, Germany, Greece, India, Italy, Latvia, Lithuania, Luxemburg, Mexico, Netherlands, New Zealand, Norway, Poland, Rumania, Sweden, Switzerland, Turkey, the Union of South Africa, Uruguay, the U.S.S.R. and Yugoslavia.*

In *China* it is further prescribed that the registers must be submitted to the competent authorities at specified intervals.

In *Greece* the register must be shown on request to the police authorities.

The regulations in the *Netherlands* specify that in addition to Government officials, and in particular the factory inspectors, the central and local police are also entitled to inspect the registers.

The workers are granted the right to inspect the registers in *Cuba* and *Finland*. In *Cuba* the Decree of 11 November 1933 stipulates that the inspectors must enter in the register a brief statement as to the results of their inspections. This statement must be signed by the inspector, by a delegate freely appointed by the workers or salaried employees and by the proprietor or manager of the establishment. The registers prescribed under the *Finnish* legislation of 27 November 1917 and 24 October 1919 must be shown on request to the delegate of the workers or salaried employees in the establishment.

§ 2. — Employment Books issued to the Workers by the Employer

1. CONTENTS OF EMPLOYMENT BOOKS

In *Argentina* the Order of 16 January 1933 provides that for the purpose of keeping a proper check on hours of work and identifying the salaried employees and workers concerned, undertakings or employers must provide their staff with books containing the following information, *inter alia*: full name and photograph of bearer, employment, occupational group and special qualifications, salary, wage or other form of remuneration, nature of the industry, branch of industry, trade or other activity, address of the undertaking, time-table and rest days.

In *Estonia* the employer must issue to every employee an account book indicating the exact duration of the working day; the remuneration paid for overtime must be shown separately in this book.

In *Latvia* every employee must be provided with an employment book in which are entered his normal hours of work, his overtime hours and the wages paid for all his work, the overtime rate being specially mentioned.

The *Lithuanian* Act of 1931 provides that the employee must have an account book supplied by the employer which he must hand back to the employer to have his wages and any deductions entered. The book is then returned to the employee.

In *Uruguay* the Decree of 15 May 1935 provides that workers and salaried employees working in groups outside the establishment or undertaking that employs them must have individual books issued by the National Institute of Labour. These books are used for keeping a check on the hours worked.

In the *U.S.S.R.* an account book must be issued to every worker and salaried employee with the exception of those on the managing staff of the undertaking. Every hour of overtime must be entered in this book, together with the hours at which work began and stopped and the wages paid for overtime.

In some countries the employer is required to issue to every employee on engagement a copy of the works regulations indicating the hours at which the working day begins and ends and the breaks.

This is the case in *Austria* (Industrial Code), *Chile* (Labour Code of 1931), *Hungary* (Industrial Code), *Turkey* (Labour Code), and *Yugoslavia* (Act of 5 November 1931).

2. CHECKING OF ACCOUNT BOOKS AND EMPLOYMENT BOOKS BY THE COMPETENT AUTHORITIES

The books mentioned above must be shown to the supervisory authorities on request.

§ 3. — Obligations of Employees

In addition to the obligation to have an employment book or account book (in *Argentina*, *Estonia*, *Latvia*, *Lithuania*, *Uruguay* and the *U.S.S.R.*) a certain number of countries have special measures for enabling the employees themselves to check the entries in the registers of overtime.

Reference was made above, (§§ 1, 2) to the provisions of the *Cuban* legislation. In *New Zealand* the Shops and Offices Act

stipulates that when wages are being paid the workers must sign the entries in the register of wages and overtime, thus certifying them as being correct. In hotels, tea-rooms and restaurants the register of holidays and half-holidays must be signed by each employee before taking his holiday. The factory inspector is entitled to check these entries and the signatures of the workers. In the *Union of South Africa* (Cape of Good Hope) the Shop Hours Ordinance stipulates that on each working day every shop assistant must enter his hours of work in the attendance register when arriving in the morning, leaving in the evening, or going out to meals and returning from them.

C. — PENALTIES

All the regulations make provision for penalties for infringements of the regulations concerning hours of work. These usually take the form of fines, but in some countries the penalty may be imprisonment, especially in the case of repeated offences or failure to pay the fine.

§ 1. — Fines

The amount of the fines varies considerably from country to country. The following are the main provisions on the subject in a certain number of regulations.

Argentina: 10 to 50 pesos for every person affected by the offence.

Australia: £1 to £20 according to the States and the seriousness of the offence.

Austria: Not more than 1,000 schillings.

Belgium: 26 to 200 francs in respect of each delinquent up to a total of 2,000 francs. For a subsequent offence the fine is doubled under the same conditions, the maximum being 4,000 francs.

Brazil: 200 to 5,000 milreis. The fine is doubled for a subsequent offence.

Bulgaria: 250 leva for each case up to a maximum of 10,000 leva.

Canada: From \$10 to \$500 in the different provinces.

Chile: 50 to 1,000 pesos. The fine is doubled for a repeated offence.

China: \$50 to \$300.

Colombia: Not more than 100 pesos for each offence.

Cuba: 10 pesos for the first offence, 20 pesos for the second and 30 for any subsequent offence.

Czechoslovakia: A maximum of 2,000 Kč and, for a repeated offence, a maximum of 5,000 Kč.

Denmark: Not less than 10 Kr. in respect of each person unlawfully employed.

Egypt: Not more than 100 Turkish piastres.

Estonia: Not more than 500 Kr.

Finland: Not more than 10,000 marks, rising to 20,000 for a repeated offence.

France: The Labour Code provides for fines of from 5 to 100 francs in respect of each worker unlawfully employed, with a maximum aggregate of 1,000 francs.

Germany: 1 to 150 RM.

Great Britain: Glass workers, not more than £20.

Greece: 100 to 500 drachma for each offence or for each worker affected, up to a total of 3,000 drachma. For a repeated offence the fine is doubled, with a minimum of 4,000 and a maximum of 6,000 drachma.

Hungary: Not more than 100 pengö; it may be increased to 200 for a repeated offence.

India: Not more than Rs. 5; in case of a second offence the fine may be from Rs. 100 to 750, and for each subsequent offence from Rs. 250 to 1,000.

Iran: 10 to 200 tomans.

Iraq: Not more than 500 Iraq dinars.

Ireland: Not more than £10, with an additional £2 for each day on which the offence continues. The fine is doubled for a repeated offence.

Italy: 100 to 500 lire under the Decree of 1923; under the Royal Legislative Decree of 1937, from 10 to 20 lire in respect of each person affected.

Japan: Not more than 1,000 yen.

Latvia: Not more than 300 lats.

Lithuania: Act of 1933, not more than 500 litas; Act of 1949, from 50 to 1,000 litas.

Luxemburg: 51 to 3,000 francs.

Mexico: 50 to 100 pesos, with a maximum of 500 if the offence concerns women.

Netherlands: Not more than 100 florins, or 200 for a repeated offence. The fine is inflicted separately in respect of each person concerned in or affected by the offence and for each day on which the offence was committed.

New Zealand: Not more than £20.

Poland: 200 to 1,000 zloty for the first offence.

Portugal: From 100 to 5,000 escudos according to the number of persons unlawfully employed.

Rumania: 500 to 2,000 lei, or from 1,000 to 5,000 for a repeated offence. The fine is inflicted in respect of each person unlawfully employed, subject to a total of 10,000 lei or, for a repeated offence, 20,000 lei.

Spain: 25 to 250 pesetas for the first offence; for any subsequent offence the fine imposed for the first-one is doubled.

Sweden: 10 to 1,000 Kr.

Switzerland: 5 to 500 francs.

Turkey: 5 to £100: in the case of a second offence within a year of the first offence the fine is increased by one-third, and for any subsequent offence within the same year the fine is increased by half the amount of the first one.

Union of South Africa: Act of 1918, not more than £10, with an

additional £5 for each day on which the offence continues; Ordinance of 1930 (Cape of Good Hope), not more than £20.

Uruguay: Decree of 15 May 1935, 10 pesos in respect of each employee or worker employed beyond the statutory hours, and 15 pesos for a repeated offence; Decree of 23 May 1934, from 10 to 500 pesos, doubled for a repeated offence.

U. S. A. (Pennsylvania): \$25 to \$200. Similar provisions varying in amount in State regulations.

U.S.S.R.: Not more than 300 roubles; if the offence affects a group of three or more workers the fine may be increased to a maximum of 10,000 roubles.

Venezuela: 10 to 1,000 bolívars, increased by half for a subsequent offence.

Yugoslavia: Act of 28 February 1922, from 50 to 3,000 dinars; Act of 5 November 1931, from 25 to 10,000 dinars.

§ 2. — Imprisonment

In *Belgium* the fine of from 26 to 200 francs may be replaced by imprisonment of from eight days to one month.

In *Canada* (Alberta, Manitoba and Nova Scotia), the penalty may be a fine or imprisonment for not more than three months. In New Brunswick the maximum period of imprisonment is one month, in Ontario six months and in Quebec one year.

The legislation of *Colombia* provides either for a fine or for imprisonment of not more than fifteen days in respect of each offence.

In *Czechoslovakia*, if the offender is insolvent, the fine may be commuted by imprisonment up to three months, or up to six months for a subsequent offence.

The period of imprisonment in *Estonia* may not exceed three months.

In *Germany* a penalty of not more than three months is imposed for an intentional repetition of the offence.

In *Greece* the maximum period of imprisonment is two months for a first or a repeated offence.

In *Hungary* a penalty of five days' imprisonment is imposed in certain cases.

In *Iran* and *Iraq* an offender may be imprisoned, the period being from one to twenty days in the former country and not more than three months in the latter.

In *Lithuania* a maximum of four weeks' imprisonment is permitted under the Act of 1919.

In the *Netherlands* the Labour Act and the administrative regulations provide that offences are punishable by imprisonment

of not more than one month or a fine or not more than 100 florins; in the case of a subsequent offence within two years the penalty may be two months' imprisonment or a fine of not more than 200 florins. In the event of a further offence within two years of the date on which the previous sentence took effect the offender is sentenced to imprisonment without the option of a fine.

In *Poland* the penalty may be a fine or imprisonment up to a maximum of three months; for a repeated offence the penalty is imprisonment for from two weeks to three months without the option of a fine.

In *Switzerland* the offender may be imprisoned for not more than three months in addition to being sentenced to a fine.

In the *Union of South Africa* (Cape of Good Hope) the Shop Hours Ordinance of 1930 provides that an offender who fails to pay the fine may be imprisoned without hard labour for not more than three months.

In the *U.S.S.R.* any offence against labour legislation renders the offender liable to a fine of not more than 300 roubles or to hard labour for a period not exceeding six months. When the offence affects a group of three or more workers the penalty may be a fine up to 10,000 roubles or imprisonment or hard labour for not more than one year.

The legislation of *Venezuela* provides that if the fine is not paid the offender will be liable to imprisonment in accordance with the provisions of the Penal Code.

In *Yugoslavia* the Act of 28 February 1922 stipulates that in the case of a repeated offence the proprietors of undertakings will be liable to a fine and in addition to imprisonment of from fifteen days to two months. The Act of 5 November 1931 prescribes that in the event of serious responsibility or repeated offences the offender may be imprisoned for not more than one month. Failure to pay the fine renders the offender liable to imprisonment for not more than thirty days at the rate of one day per 50 dinars.

§ 3. — Other Penalties

In some countries other penalties are provided. In *Cuba*, for example, workers may be punished by the confiscation of the wages due in respect of the hours they have worked unlawfully. In *Germany* an establishment may be temporarily closed if the employer has been guilty of certain serious offences against the regulations.

CHAPTER VI

CONCLUSIONS

The following conclusions, based on the existing law and practice on hours of work in the various countries as described in the previous chapters, are submitted to the Conference as an explanation of the list of points on which it is suggested Governments be consulted. This list will be found at the end of this Report.

I. — FORM OF THE REGULATIONS

The Governing Body at its Eighty-first Session held at Prague in October 1937, when it placed the question of the generalisation of the reduction of hours of work on the agenda of the 1938 Session of the Conference, decided that the question should be considered as coming up for a first discussion, namely, that it should be followed by a consultation of the Governments, the results of which will be submitted to the 1939 Session, with a view to the preparation of a Draft Convention. This clearly implies that a discussion should take place on the basis of a Draft Convention, thus excluding the possibility of the matter being dealt with by means of a Recommendation.

This decision is, moreover, consistent with the terms of the 40-hour Week Convention, 1935, which referred to the application of the principle of a 40-hour week to various classes of employment in accordance with the detailed provisions to be prescribed by separate Conventions.

Given that the regulations shall take the Draft Convention form, the question arises whether Governments prefer to have

them embodied in one Draft Convention applying to industry, commerce and offices; or two Draft Conventions, one applying to industry and one applying to commerce and offices.

On the one hand, the resolution of the Governing Body mentioned above refers to the preparation of *a* Draft Convention. In the same way the resolution adopted by the Twenty-third Session of the Conference in June 1937 considers that efforts should be directed towards the adoption of a general Convention. Moreover, when in 1934 two proposed Draft Conventions on the reduction of hours of work were laid before the Conference, one relating to industry and one to commerce, certain representatives of the workers expressed themselves in favour of a single Draft Convention covering both industry and commerce.

On the other hand, there exist at present two distinct Conventions applying the 48-hour week, one adopted in 1919 at the First Session of the Conference and applying to industrial undertakings and the other adopted in 1930 at the Fourteenth Session applicable to commercial establishments and offices. When in 1933 a question was asked of Governments as to whether the international regulations then contemplated should take the form of one or more Draft Conventions distinguishing between industrial undertakings on the one hand and commercial establishments on the other, the method of a single Convention was supported by only one Government. The majority of the replies to the questionnaire showed a preference for dealing with the matter by means of two separate Conventions and the discussions at the Eighteenth Session of the Conference were conducted on this basis.

The analysis of national regulations in the preceding chapters has shown that there is great divergence in national practice in this respect, some national legislations covering all remunerated employment subject to specified exclusions, whilst other countries have separate legislation for industry on the one hand and commercial establishments on the other.

In these circumstances, it is suggested that Governments should be consulted as to the desirability of adopting:

A single Draft Convention applying to industry, commerce and offices; or

Two Draft Conventions, one applying to industry and one applying to commerce and offices.

II. — SCOPE

§ 1. — Methods of determining Scope

Two different methods might be used for determining the scope of the proposed international regulations: one is to cover by a general formula all manual and non-manual workers, including apprentices, irrespective of where they work; the other is based on an enumeration of the categories of undertakings covered and includes only manual and non-manual workers, including apprentices, employed in undertakings belonging to one of these categories; this enumeration may be restrictive or selective.

1. EXTENSION OF THE SCOPE TO ALL MANUAL AND NON-MANUAL WORKERS, INCLUDING APPRENTICES, IN ALL INDUSTRIAL AND COMMERCIAL UNDERTAKINGS AND OFFICES

The method of defining the scope by a general formula is used in a certain number of International Labour Conventions, more especially in those concerning social insurance and, to some extent also, in the Conventions concerning the conditions of employment of seamen and of persons employed in agriculture.

This method has the advantage that a wide scope can be defined by a brief general formula. Consequently any categories of occupations or of undertakings which it is not desired to include must be specially excluded.

In spite of the obvious advantages of simplicity and conciseness which this method offers, the Office does not consider that this method can be retained for defining the scope of the proposed international regulations. A general formula is suitable for other regulations, in which the nature of the undertaking is of minor importance, but it is not necessarily an appropriate method for the limitation of hours of work—and there are precedents to this—effect and it does not appear to have any advantage over the second method.

The scope of the regulations must be determined as precisely as possible so as to prevent any risk of varying national interpretations of the scope of such terms as “industrial undertakings”, “commercial establishments” and “offices”. The fact that certain

national laws use a general clause is not a conclusive argument in favour of adopting the same method for international regulations, since international law, the application of which rests upon separate and independent legislations, requires a different legislative method than that used in municipal law, where uniformity of interpretation can be more easily secured.

2. EXTENSION OF THE SCOPE TO ALL MANUAL AND NON-MANUAL WORKERS, INCLUDING APPRENTICES, EMPLOYED IN UNDERTAKINGS OF THE CATEGORIES ENUMERATED

It is therefore necessary to define the scope by an enumeration of the categories of undertakings in which are employed the manual and non-manual workers and apprentices to be covered.

It must be admitted that this method has two disadvantages. There is the risk of omitting certain branches of occupational activity which should be included in the scope, and there is the further difficulty of adapting the definition to the requirements of technical progress which produces new types of undertakings hitherto unknown. The first difficulty may be overcome if the enumeration given is as detailed as possible. Moreover, as regards the second difficulty the enumeration must be considered as selective and not as restrictive, so that the categories of establishments mentioned will in any case be covered but those not mentioned will not be necessarily excluded.

These disadvantages, which are more apparent than real, are to a great extent outweighed by the inherent advantages of the method.

In the first place, it must be remembered that in the drafting of the two general Conventions on hours of work the method of enumeration is employed. The Hours of Work (Industry) Convention, 1919, and the Hours of Work (Commerce and Offices) Convention, 1930, both use this method, the first employing a selective enumeration and the second a restrictive enumeration for defining their scope. It therefore appears desirable to continue the established tradition and apply a method which has proved its value. The fact that quite a number of national laws have also adopted this method is an additional argument in its favour.

There is another reason why the Office considers it preferable in the list of points to give an enumeration of the categories of undertakings covered. It wishes to obtain from the Governments

consulted a clear reply, avoiding all possibility of misunderstanding as to the categories of undertakings which they propose to include in the future international regulations and those which they wish to exclude. For this purpose a detailed enumeration of categories of undertakings will doubtless enable the most precise replies to be secured from Governments.

The Office therefore proposes to the Conference to use this method in order to draw up the list of points on which Governments should be consulted.

§ 2. — Undertakings

1. INDUSTRIAL UNDERTAKINGS

The Office has taken as a basis for the list of undertakings which should be considered as industrial the formula used in the Hours of Work (Industry) Convention, which has in general proved adequate for its purpose and does not seem to have given rise to serious difficulties in its application. The four groups of industrial undertakings there mentioned include practically all industrial activities, and in any case all those which it seems desirable to include in international regulations.

The Office nevertheless has thought it desirable to make on the one hand, certain drafting changes in the wording of the Washington Convention, and, on the other hand, to take account of the technical advances of the last twenty years by including for example, airports in the enumeration and by substituting the term "telecommunication installations" for the term "telegraphic or telephonic installation", so that there can be no doubt that wireless installations are included. For this purpose the Office has used the wording prepared for the proposed Draft Convention on the Reduction of Hours of Work in the Building and Civil Engineering Industry (1935).

With regard to mines, it may be well to point out here that the conditions of work of persons employed in coal mines are dealt with in the third Part of this Report, and that they form the subject of a special list of points. Therefore mines from which coal, including lignite, is the only or principal mineral extracted are excluded from the enumeration of industrial undertakings.

Further, the enumeration does not cover transport by rail open to public traffic, covered in the second part of this Report and

for which a special list of points has been prepared. However, since that list does not include privately operated rail transportation services within industrial, commercial, and mining undertakings, that type of rail transport is retained in this part of the Report.

Similarly, the enumeration does not refer to the professional drivers (and their assistants) of vehicles engaged in road transport, as their conditions of employment are dealt with in a separate report with a separate list of points.

The Office has also made provision for consulting Governments as to whether they consider that other categories of undertakings should be included among industrial undertakings, for however carefully the enumeration has been prepared there is always the possibility of an omission. It is therefore desirable to know whether experience has shown it necessary to include other categories of undertakings than those mentioned.

The Conference will also have to decide whether it intends the list of categories of undertakings covered to be of a selective or restrictive character. The first method was that of the Hours of Work (Industry) Convention, 1919, and the second that of the Hours of Work (Commerce and Offices) Convention, 1930.

In the light of these considerations, the Office proposes to consult Governments as to whether the international regulations should apply to the following categories of industrial undertakings:

- (a) Undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale broken up or demolished, or in which materials are transformed, including undertakings engaged in the generation, transformation or transmission of electricity or motive power of any kind;
- (b) undertakings engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of buildings, railways, tramways, airports, harbours, docks, piers, works of protection against floods or coast erosion, canals, works for the purpose of inland, maritime or aerial navigation, roads, tunnels, bridges, viaducts, sewers, drains, wells, irrigation or drainage works, telecommunication installations, works for the production or distribution of electricity or gas, pipe-lines, waterworks, or undertakings engaged in other similar work or in the preparation for or laying the foundation of any such work or structure;

- (c) mines, quarries and other works for the extraction of minerals from the earth excluding mines from which coal, including lignite, is the only or principal mineral extracted;
- (d) undertakings for the transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, warehouses or airports;
- (e) other categories of undertakings which might be included.

2. COMMERCIAL ESTABLISHMENTS

The enumeration of commercial establishments, or establishments deemed to be commercial, contains several main groups which should be studied separately.

(a) *Commercial Establishments and Commercial Branches of Any Other Establishments*

The Office has reproduced unchanged the wording of Article 1, paragraph 1 (a), of the Hours of Work (Commerce and Offices) Convention, 1930, which would appear to have proved satisfactory in practice.

The concept of a "commercial establishment" is approximately the same everywhere. The divergences that may occur from country to country with regard to the inclusion of certain establishments under this heading do not appear to be considerable. On this point it is well to note that the term must not be understood in the restricted sense in which it may be used in certain commercial codes. In any case it covers all shops. In the opinion of the Office, chemists shops should also be included among commercial establishments. Special mention has been made of postal, telegraph and telephone services, so that there can be no doubt as to their inclusion.

In using the expression "commercial branches of any other establishments", which is reproduced from the 1930 Convention, the intention is to cover all commercial branches in which the hours of work are not already restricted by the regulations applying to industrial undertakings.

(b) *Establishments and Administrative Services in which the Persons employed are mainly engaged in Office Work*

Here again, the Office took as a basis Article 1, paragraph 1 (b), of the 1930 Convention.

The establishments and administrative services in which the persons employed are mainly engaged in office work include, for example, financial and credit establishments such as banks, insurance offices of all kinds, exchange offices, lottery offices, pawn-brokers' establishments; agencies of all kinds, such as merchants' offices, steamship offices, brokers' offices, travel agencies, forwarding agencies, information and advertising bureaux and newspaper offices, publishing offices and offices of persons engaged in the liberal professions, e.g. barristers and solicitors, architects, surveyors, engineers, etc.

With regard to public establishments and administrations, cf. below, section 3 c.

(c) *Mixed Commercial and Industrial Undertakings*

When the text of the Convention on Hours of Work in Commerce and Offices was being prepared in 1930, care was taken to point out that mixed commercial and industrial establishments fell within the scope of that Convention unless they were deemed to be industrial undertakings already covered by the Washington Convention. It was thus possible to prevent certain types of work, such as that of hairdressers, bakers and butchers, from remaining outside international regulation.

It is clear that a provision of this sort is unnecessary unless it were proposed to draw up two separate Conventions, the one to apply to industry and the other to commerce and offices. If a single system of regulations covering commercial establishments and offices as well as industrial undertakings were to be adopted, this question would not arise.

(d) *Establishments for the Treatment or the Care of the Sick, Infirm, Destitute or Mentally Unfit*

(e) *Hotels, Restaurants, Boarding Houses, Clubs, Cafés and Other Refreshment Houses*

(f) *Theatres and Places of Public Amusement*

The three categories of establishments mentioned above were not included in the Hours of Work (Commerce and Offices) Convention, 1930. The reason for this decision of the Conference was that the majority of the Governments, in their replies to the

questionnaire sent out by the Office, were opposed to including these three groups of establishments in the international regulations. In the Recommendations adopted for each of these three categories the Conference invited the Governments to undertake special enquiries into the systems of hours of work in force.

There were two main objections to the inclusion of these categories of establishments in the 1930 Convention. On the one hand national laws were much less highly developed and varied much more as regards these establishments than as regards other types of undertakings. It was not merely that the regulations on hours of work for hospitals, hotels and theatres were extremely divergent in different countries; the number of countries having legislation restricting the hours of work in these establishments was less than the number having corresponding legislation for commerce and offices.

This state of affairs was due to the difficulty of attempting to restrict the hours of work of persons employed in these establishments, for in most of them the working day includes long or frequent periods of light work or mere attendance.

Further, international regulations drafted on the basis of the Convention of 1930 could not take into consideration the special character of the work in these establishments.

Nevertheless there can be little doubt that conditions of employment in hospitals, hotels and theatres are often far from easy and that the staff employed deserves to be given adequate social protection in some form or other. For this reason quite a number of countries have legislation restricting the hours of work of these persons.

It is therefore necessary to consult Governments again. Apart from the possibility that certain Governments may have changed their views since 1930, it is well to note that the Office proposes to suggest special limits for the hours of work of persons employed in these establishments.

Consequently, a new consultation of Governments may give more positive results than were obtained nine years ago.

(g) Other Categories of Establishments that might be included.

As in the case of industrial undertakings, it seems desirable to consult Governments as to whether other categories of establishments should be included in the enumeration proposed for commercial establishments.

3. POSSIBLE EXCEPTIONS

Many national laws exempt certain categories of industrial and commercial undertakings from the regulations limiting hours of work. It is therefore necessary to consider whether and to what extent the international regulations should authorise the national legislations to restrict their scope.

(a) *Undertakings in which only Members of the Employer's Family are employed*

The exclusion of family undertakings from the hours of work regulations has undoubtedly undesirable social and economic consequences. In the first place it excludes from the benefits of such regulations persons employed in small handicraft or retail establishments where conditions of employment are often bad. In the second place, family workshops are often serious competitors of larger undertakings to which the hours of work legislation applies.

There are, however, various quite important reasons for making the exclusion of such undertakings possible.

It is pointed out that family undertakings would find it very difficult to adjust themselves to the limits of hours of work laid down for industry and commerce in general. Moreover, the supervision of hours of work in family workshops is not always possible and raises difficult problems as to the means at the disposal of factory inspection services for this purpose. Consequently a number of countries have felt obliged to exclude these establishments from their legislation, either unconditionally (as in *Argentina*, the *Canadian* Provinces of *Alberta* and *Saskatchewan*, *Egypt*, *Finland*, *Luxemburg*, *Norway*, *Sweden*, *Switzerland*, *Turkey* and *Yugoslavia*) or to permit their exclusion under certain conditions (as in *Belgium*, *Brazil*, *Bulgaria*, *Ireland*, the *Netherlands*, *New Zealand*, *Rumania* and the *U.S.S.R.*), as for instance, in cases in which the work performed is neither dangerous nor unhealthy.

For the same reasons the International Labour Conference has been obliged either to accept the complete exclusion of family undertakings from the international regulations on hours of work (Hours of Work (Industry) Convention) or to grant the national authorities power to exclude them (Hours of Work (Commerce and Offices) Convention). This latter solution was also adopted in the Reduction of Hours of Work (Textiles) Convention, 1937, which provides that the organisations of employers and workers

concerned, where such exist, must be consulted before this exclusion is made.

In view of the present state of national legislation and of recent decisions of the Conference, it does not appear possible at the moment to go further towards including family undertakings in the international regulations than was done in the Convention for the textile industry.

On the contrary, the Office has not thought it expedient, and certainly not essential, to provide for the possible exclusion of members of the family of the employer working in undertakings which employ other workers not belonging to the family. There are only a few national laws in which the existence of a relationship between the employer and the worker is sufficient to exclude the latter from the hours of work regulations, and even then certain countries, such as *Italy, Japan, Lithuania, Sweden and Uruguay*, exempt these persons only under certain conditions, such as that they do not receive wages or are not permanently employed, or have no contract of employment or live under the employer's roof. Up to the present, moreover, no international Conventions on hours of work have made provision for the possible exclusion of these workers in the undertakings they cover.

(b) *Small Undertakings normally employing not more than Six Persons*

The position of small industrial and commercial undertakings with regard to the limitation of hours of work is in many respects similar to that of family undertakings, which are also as a rule small undertakings.

Here again there are valid reasons for not excluding such undertakings. By so doing one places them in a privileged situation as compared with those subject to the regulations, and the latter may then complain of the competition of small undertakings. There are certain industrial and commercial activities in which this competition is particularly serious. Further, the staff employed in small undertakings is certainly just as much entitled to protection as workers employed in large undertakings.

There are, however, weighty arguments in favour of providing for the possibility of excluding small undertakings from the international regulations. Like family workshops, these undertakings find it difficult to adapt themselves to the same limits of hours as are observed by large undertakings, and the resulting financial

burden is much heavier for them. There are in addition serious problems of organisation: when the reduction of hours of work leads to the engagement of additional workers, small undertakings have often to solve very difficult problems because of the lack of space in the workshop and the necessity for increasing their equipment; the smaller the undertaking the more difficult it is to solve these problems. Frequently also the reduction of hours of work might compel an employer in a small undertaking to engage additional staff without having sufficient work to provide full time employment for them.

For these reasons the national laws either make provision for excluding such undertakings, or permit them to work longer hours, or adopt more elastic regulations concerning extensions of hours. The exclusion of all or certain categories of small undertakings is permitted, under the conditions specified in the documentary part of this report, by the legislation of the following countries: *Australia* (Tasmania and Victoria), *Belgium*, *Bulgaria*, *Canada* (Saskatchewan), *China*, *Estonia*, *Finland*, *Hungary*, *India*, *Ireland*, *Japan*, *Luxemburg*, *New Zealand*, *Norway*, *Portugal*, *Sweden*, *Switzerland*, *Turkey*, the *Union of South Africa*, the *United States of America* (North Carolina), the *U.S.S.R.* and *Yugoslavia*.

The criterion adopted for determining what are small undertakings may be either the number of workers employed or the fact that little or no motive power is used.

In view of the very extensive number of countries that permit the exclusion of small undertakings, the Office feels obliged to propose that Governments be consulted as to whether they wish to leave the national laws free to exclude small undertakings from the scope of the proposed regulations.

If the replies are in the affirmative, it will be essential to define what is meant by the term "small undertakings". Since the number of workers normally employed is the criterion used in most of the national laws, the Office considers that it might also be utilised in international regulations. As there are considerable differences between the number of workers fixed by different national regulations up to which the exemption of the undertaking may be permitted, the Office proposes the figure of six for the following reasons. The minimum number of workers which theoretically permits a single undertaking to engage an additional worker when reducing the hours of work from 48 to 40 in the week is five, but in such an undertaking there is in addition one person in charge of the work, and it therefore seems reasonable to suggest that all

undertakings employing six persons or over should be subject to the international regulations.

It goes without saying that Governments will be able, in replying to the questionnaire, to propose some figure other than six persons, or to suggest other criteria for defining what is meant by small undertakings.

(c) Offices in which the Staff is engaged in Connection with the Administration of Public Authority

In the international regulations on hours of work adopted up to the present time and in those now proposed, no distinction is made between public and private undertakings.

It is desirable to grant social protection as regards hours of work to all workers irrespective of the nature of their services or the legal status of the undertakings or administrative offices in which they are employed. Public servants deserve such protection just as much as manual and non-manual workers.

Nevertheless States often hesitate to include public officials in regulations restricting hours of work and this hesitation is particularly strong with regard to those engaged in the administration of public authority. The officials wielding public authority, as distinct from officials having only administrative duties with no authority derived from the State, are taken to include those who have power to issue orders in the name of the State and to take part in the measures required to give effect to such orders.

Furthermore, resistance was shown in certain quarters when it was proposed in 1930 that public administrative services in which the work consisted mainly in office work might be made subject to the international regulations.

Some Governments suggested excluding all public servants even if they worked in establishments of a commercial or industrial nature; it was therefore proposed that postal, telegraph and telephone services, in so far as they were not private undertakings, should be excluded. Other Governments wished to leave outside the scope of the regulations public officials not engaged under a private law contract but employed under public law.

The Conference considered, however, that to exclude all such persons was going much too far. Many Governments wished to include in the scope of the regulations public establishments of a commercial, industrial or mixed character and to permit the possibility of exclusion only in the case of those that had not these characteristics, that is to say, those actually acting as organs

of Government. The fact of an establishment or service being managed by a public body should not be a reason for its exclusion, for the public and private systems of organising telephone or tramway services, for instance, differ not only from one country to another, but sometimes from one municipality or district to another in each country.

The Conference therefore decided in 1930 to allow for the possible exemption only of the staff engaged in connection with the administration of public authority. It is true that this formula of exclusion is still quite wide and does not entirely meet the desire mentioned above to guarantee social protection for all public servants in the same way as for other workers. But it must be remembered that if the staff engaged in the administration of public authority is excluded—and it is scarcely possible to include it—it becomes necessary for reasons of service to exclude other persons. The functioning of public services involves an interdependence between the duties performed by persons belonging partly to the categories of officials wielding authority and partly to the categories of those carrying out orders. A magistrate could not carry out his duties without the help of the clerk of the Court; a police superintendent or prefect could scarcely fulfil his duties without the help of subordinate staff to whom no public authority is delegated.

In these circumstances the Office has considered it necessary to consult Governments afresh on this point and it has taken the wording of the Hours of Work (Commerce and Offices) Convention, 1930, for inclusion in the list of points.

§ 3. — Persons

1. APPLICATION OF THE INTERNATIONAL REGULATIONS TO ALL MANUAL AND NON-MANUAL WORKERS, INCLUDING APPRENTICES. EMPLOYED IN THE UNDERTAKINGS COVERED

The international Conventions on hours of work so far adopted and the great majority of the national laws extend to the whole staff of the undertakings covered, subject to certain specified exceptions. The Office has therefore retained this method, subject to a slight drafting change: instead of using the term "persons employed", as was done in the Conventions of 1919 and 1930 and the Textile Convention of 1937, it suggests the use of the expression "manual and non-manual workers, including appren-

tices, employed ". There can thus be no doubt that apprentices are to be included. This wording has already been used in quite a number of other International Labour Conventions.

2. POSSIBLE EXEMPTIONS

In a large number of countries the principle of applying the hours of work regulations to all persons employed in the undertakings covered is subject to certain restrictions. Most of the laws, for example, make exceptions based on the nature of the duties performed by the employed person or on the fact that the employee does not perform his work within the undertaking, as, for instance, in the case of a commercial traveller or representative.

(a) *Persons holding Positions of Management or employed in a Confidential Capacity*

(i) *Solutions adopted in national laws*

There are only a few countries in which no persons holding higher positions in undertakings are excluded from the regulations; examples are the legislation of *Czechoslovakia* and *France*.

The great majority of regulations exclude from their scope persons holding positions of management or employed in a confidential capacity or on some similar duties. This may be done either by a general formula or by a detailed list of the duties in question.

Among the laws that exclude in general all persons holding positions of management or supervision, mention may be made of those of the following countries: *Austria, Belgium, Brazil, Canada* (British Columbia, Nova Scotia and Yukon), *Colombia, Egypt, Estonia, Greece, Hungary, Ireland, Latvia, Luxemburg, the Netherlands, Norway, Rumania* and *Switzerland*. Persons employed in a confidential capacity are excluded by a general formula in *Austria, Brazil, Canada* (British Columbia and Nova Scotia), *Colombia, Egypt, Greece, Latvia, Luxemburg* and *Norway*. In *Poland*, although the legislation does not make provision for such exclusions the courts have held that exemption should be granted to persons who are not obliged to remain at the employer's disposal in or outside the workplace.

The method of enumeration of the categories of persons excluded is equally widely used. In *Belgium, Germany* and *Rumania* it is employed to define the persons considered as employed in a con-

fidential capacity; in *Argentina, Bulgaria, Estonia, Germany, Great Britain, Italy, New Zealand, Spain, Sweden, Switzerland* (Federal legislation and Cantons of Basle Town and Valais), *Turkey, the Union of South Africa* (Cape of Good Hope), *United States of America* (Pennsylvania), *Uruguay, Yugoslavia*, more or less detailed enumerations are given by way of definition of positions of management. The criteria used differ very considerably: in some countries the criterion is the fact of the person in question having a certain number of workers under him, or not engaging in any manual work, or earning over a specified amount; in other countries he must hold a permanent post similar to that of an employer, or his duties must be such that he cannot adhere to a rigid time-table: in yet other countries lists have been drawn up, either for industry in general or for different branches of economic activity, enumerating the duties for which exemption is granted from the legislation.

A few examples of these may be quoted. In *Argentina* the 8-Hour Day Act does not apply to persons holding positions of supervision or management. The Decrees to give effect to this legislation indicate the interpretation of this phrase by a very detailed enumeration which includes the following: managers, directors or principal persons in charge of an undertaking; the staff of the secretary's office, heads of branches, departments or workshops, foremen, inspectors, assistant inspectors, timekeepers, etc.

In *Austria* employees responsible for management or holding positions of special trust are excluded.

The *Belgian* legislation on the 48-hour week does not apply to persons holding positions of management or employed in a confidential capacity. Several Royal Orders were subsequently issued containing lists of occupations considered as being confidential. This list, which mentions thirty types of duties and is divided according to different branches of industry, includes the following posts which are considered as confidential in any branch of economic activity: managers, under-managers, works superintendents, authorised agents and holders of powers of attorney, staff engaged exclusively in the secretarial department, engineers, chiefs and assistants chiefs of management, commercial or technical services, cashiers, head foremen, departmental managers, shop foremen and head storekeepers, foremen enginemen, mechanics, fitters, etc.

In *Brazil* the normal hours of work regulations do not apply to persons holding positions of management, external supervision or inspection.

In *Bulgaria* the legislation considers managers, directors and heads of undertakings as being employers and therefore excluded.

In *Colombia* persons holding positions of supervision or management, or employed in a confidential capacity, or having financial responsibility do not fall within the scope of the Act.

The *Egyptian* Decree concerning the employment of women grants exemption to women holding positions of management or employed in a confidential capacity.

In *Estonia* directors, managers or persons responsible for contracting or supervising operations are excluded.

In *Germany* the legislation excludes from its scope employees holding positions of management and normally having not less than twenty salaried employees or fifty workers under their orders, or if their annual remuneration exceeds the limit fixed for liability to salaried employees' insurance (7,200 RM.), and also confidential clerks with general powers of attorney and the representatives of an undertaking whose names are included in the commercial register or the co-operative register.

In *Great Britain* the Factories Act does not restrict the hours of work of women holding responsible positions of management who are not ordinarily engaged in manual work.

In *Hungary* the Act of 1937 exempts employees holding positions of management from the provisions concerning hours of work.

The legislation of *Ireland* considers the work of overseeing, directing and managing industrial work as being commercial work and therefore excludes it from its scope.

In *Italy* the Decree of 1923 concerning the 48-hour week does not apply to the managing staff of undertakings or to persons engaged in occupations which owing to their nature or the special circumstances of the case involve discontinuous work or mere being in attendance or watching. A schedule of such occupations was subsequently approved by Royal Decree. It mentions more than forty, of which the following may be selected as examples: caretakers, doorkeepers, hall porters, supervisors who do not engage in manual work, persons employed in the supervision of various types of industrial plant specified in the Decree, hotel employees whose duties bring them into contact with customers, provided their work is discontinuous, etc.

In *Lithuania* persons responsible for the direction and supervision of the work, or employed in a confidential capacity, are not subject to the hours of work regulations.

In *Luxemburg* persons holding positions of supervision or management or employed in a confidential capacity are not covered.

In the *Netherlands* the head or manager of an undertaking and his wife are exempt.

In *New Zealand* the Shops Act excludes persons entrusted with the general management or supervision of a shop if their weekly wage exceeds £6 (£4 in the case of women).

In *Norway* the regulations restricting hours of work do not apply to persons engaged in managerial or supervisory functions or holding some particularly confidential post.

In *Portugal* the National Institute of Labour and Social Welfare may, at the request of the parties concerned, grant exemption to persons holding positions of management or supervision or employed in a confidential capacity.

The *Rumanian* law does not apply to persons holding positions of management or supervision or in general to persons employed in a confidential capacity. This latter terms is interpreted in the Decree of application by an enumeration which includes managers, assistant managers, directors, superintendents, confidential and managing clerks, staff engaged exclusively in the secretarial department, directors and assistant directors of managing, commercial or technical services, cashiers, chief foremen, chargemen, shop foremen and head storekeepers, foremen engineers, mechanics and fitters, persons normally responsible for taking delivery of materials, travellers, doorkeepers, etc.

In *Spain* the legislation does not apply to directors, managers or other officials of undertakings who on account of the nature of their duties cannot be required to observe strictly limited hours of work.

In *Sweden* exemption is granted to foremen and other employees having several workers under their orders, draughtsmen and other similar persons, office caretakers and other subordinate office employees.

In *Switzerland* the Federal Factories Act does not include within its scope persons to whom the manufacturer entrusts important duties in the management of the undertaking or as representatives outside. In the Canton of Basle Town, the legislation does not apply to the directors or heads of departments in public administrative offices, institutions or undertakings, or to persons responsible for the management of joint stock companies or associations, or to managing clerks who actually run an undertaking or have a share in its management. In the Canton of Valais, the legislation does not

apply to employers, managers, chiefs of service, managing clerks and higher employees.

In *Turkey* managers, administrative employees, and in general all persons responsible for directing operations are considered as being representatives of the employer and therefore exempt.

In the *Union of South Africa* the competent Minister may exempt persons employed as foremen, supervisors or managers.

In the *United States of America* (Pennsylvania) the legislation does not apply to persons holding positions of management and earning more than \$25 a week.

In *Uruguay* the directors and managers of undertakings are excluded when they are not expected to adhere to a rigid time-table.

The legislation of *Yugoslavia* does not apply to persons entrusted with more important duties, such as managers, accountants, cashiers, engineers, etc.

(ii) *Solutions adopted in the International Labour Conventions concerning the Reduction of Hours of Work*

The divergencies that exist in the formulæ adopted in national laws to exclude persons holding positions of management or trust are reflected in the decisions of the Conference. The question has given rise to lengthy and difficult discussions at various sessions of the Conference and the following five different solutions have been adopted in five Conventions on hours of work, to provide for the exclusion of persons holding higher posts:

- (1) Persons holding positions of supervision or management or employed in a confidential capacity are exempt from the provisions of the Convention—Hours of Work (Industry) Convention, 1919.
- (2) The competent authority in each country is permitted to exempt persons occupying positions of management or employed in a confidential capacity—Hours of Work (Commerce and Offices) Convention, 1930.
- (3) Persons engaged in supervision or management who do not ordinarily perform manual work are exempt from the provisions of the Convention—Hours of Work (Coal Mines) Convention, 1931, and (Revised), 1935.
- (4) The competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, exempt from the application of the Convention persons occupying positions of management who do not

ordinarily perform manual work—Reduction of Hours of Work (Public Works) Convention, 1936.

- (5) The competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, exempt from the application of the Convention classes of persons who by reason of their special responsibility are not subjected to the normal rules governing the length of the working week—Reduction of Hours of Work (Textiles) Convention, 1937.

It will be seen therefore that the International Conventions on Hours of Work have gradually restricted the scope of the exceptions, first of all substituting for exemption pure and simple the possibility for the national law to prescribe such exclusions as are internationally permitted, then eliminating the possibility of exclusions for posts of supervision and abolishing the exemption provided for persons employed in a confidential capacity, then introducing the restrictive concept of non-manual work, and finally emphasising the special responsibilities of the duties in question to which the normal rules governing hours of work cannot apply.

(iii) *Attitude of the Organisations of Professional Workers*

In spite of the efforts made at various sessions of the Conference to define and restrict the exemptions for higher grades of staff in so far as compatible with the present state of national legislation, the organisations of professional workers have not ceased to request that such exemptions should be still further restricted.

The thirteenth International Congress of Professional Workers held at Brussels in September 1935 protested energetically against the exclusion from the international regulations on the reduction of hours of work of persons holding positions of supervision, trust or technical control.

In 1936 the general secretary of the International Federation of Professional Workers submitted a protest on the same point to the President of the International Labour Conference and the Director of the International Labour Office. The Advisory Committee on Professional Workers, at its sixth session in Geneva on 28 and 29 May 1937, proposed that the wording hitherto used in the Convention should be replaced by the following form of words: "Persons who carry out managerial duties and share in fact in the profits of the undertaking and are customarily regarded as not subject to the normal rules governing hours of work."

Before the last Session of the International Labour Conference the representatives of professional workers urged that provision for exclusion should be made only in respect of persons holding positions of management and in fact sharing in the profits of the undertakings.

(iv) Necessity for consulting Governments afresh

In drawing up the list of points on the basis of which Governments should be consulted, account must be taken not only of the state of national legislation and the solutions adopted by the Conference after its previous discussions but also of the necessity for granting to higher grades of staff the social protection which they may justly claim.

Careful study of the subject has shown that it is not necessary to make provision for the possibility of excluding persons holding positions of supervision. Only a minority of the national laws permit such exemptions. The inclusion of these persons is fully justified on social grounds and has been accepted in recent international Conventions on hours of work. There is no reason to presume that the Conference will wish to reverse these decisions. At the same time account is thus taken of one of the main demands of the organisations of professional workers.

With regard to persons holding positions of management or employed in a confidential capacity, it seems essential to consult Governments again, for there can be no doubt that the Conference will be particularly anxious to know what is considered desirable and possible in the proposed international regulations. It is only in the light of clear replies and statements of reasons from the Governments that it will be possible to decide whether provision should be made for the possible exemption of:

- (1) persons holding positions of management only, or
- (2) persons employed in a confidential capacity only, or
- (3) persons who by reason of their special responsibility are not subjected to the normal rules governing the length of working time.

In the first two eventualities it would be for Governments in their replies to state whether and how positions of management or employment in a confidential capacity should be defined in the international regulations.

Whatever form of words may be selected by the Conference, it should be understood that the decision to exclude such persons cannot be taken by the competent national authority until the organisations of employers and workers concerned, where such exist, have been consulted.

(b) *Travellers and Representatives, in so far as they work Outside the Undertaking*

Many national laws on hours of work exclude persons employed in external services, and in particular travellers and representatives. Examples may be found in the legislation of *Argentina, Belgium, Brazil, Egypt, Finland, Ireland, Italy, Japan, New Zealand, Norway, Sweden, Switzerland, the Union of South Africa* (Cape of Good Hope), and the *United States of America* (North Carolina).

Reference is not being made here to independent traders working on their own account as salesmen for the goods of one or more firms, or to commercial representatives working on a commission basis for certain establishments but not being members of the staff. The travellers and representatives referred to in the laws mentioned above are those employed by industrial or commercial establishments as salesmen, buyers, inspectors, collectors, etc.

The main reason for excluding such persons is the nature of their duties, which are such as to make it difficult to restrict their hours of work. Moreover, it is scarcely possible to keep a check of their hours, for such travellers and representatives are usually moving from place to place, sometimes at a long distance from their headquarters or even in foreign countries.

It thus becomes clear that the possibility of exclusion can be restricted. There seems no need to exclude those persons entirely from the regulations; it would suffice to exempt them in so far as they are employed outside the establishment and it is therefore impossible for the employer to keep a check on their hours of work. When, however, they are not travelling but are working in the establishment under the supervision of the employer, there is no valid reason for exempting them.

Thus the Hours of Work (Commerce and Offices) Convention, 1930, empowered the competent authority to exempt "travellers and representatives, in so far as they carry on their work outside the establishment". Governments might therefore be requested to state whether they favoured the insertion of such a possibility in the proposed international regulations.

III. — LIMITATION OF NORMAL HOURS OF WORK

§ 1. — Definition of Hours of Work

Before discussing the limits to hours of employment of the persons covered by the proposed international regulations, it is important to indicate clearly the precise meaning of the terms used. In order to avoid any possible ambiguity concerning the nature of the work to which the limitation on hours may be applied, it seems desirable to include in the proposed international regulations a definition of the term "hours of work".

It has already been indicated in the analysis of definitions of hours of work found in national regulations, that although a variety of terms are used, the meaning of these terms is practically the same. A similar lack of clarity in the terminology of international regulations has caused trouble in interpreting the precise meaning of the regulations. The chief difficulty that has arisen in the interpretation both of national regulations and international conventions has been in regard to the meaning of the term "work". It may be useful to note briefly the problems that have arisen in this regard.

The Hours of Work (Industry) Convention, 1919 contains no definition of the terms used to limit hours, namely "working hours" or "hours of work". Furthermore, in addition to the limitation on hours, the Convention contains provisions in regard to the posting of notices of rest intervals accorded during the period of work but not reckoned as part of working hours. However, as these rest periods are not defined, the question has been raised as to whether, in addition, all breaks, including for example those caused by stoppage of machinery or by irregular flow of goods or by the need, for the sake of efficiency, of giving a short breathing spell in the course of active work, should be deducted from the calculation of the work period. At the time when national regulations were drafted with a view to the ratification of the Hours of Work (Industry) Convention, it became evident that the terms describing both hours of work and rest periods might be interpreted differently; it was not entirely clear as to which rest periods, breaks or short pauses should be considered mere interruptions, remaining an integral part of the work period, and which should be considered

rest periods in the sense of free time for the worker, thus falling outside the limit placed upon hours of work. A certain number of Governments attempted to clarify the intent of the Convention, but these attempts brought to light differences in interpretation. For example, in 1924, the British Government, while not proposing to define hours of work, suggested excluding from the work period "recognised intervals for meals or rest". Certain other Governments apparently defined the concept of hours of work more narrowly, basing it on the notion of effective work.

Therefore, at the time when simultaneous ratification of the Convention was under consideration, the problem of distinguishing between hours of work and rest periods was specifically brought to the attention of Governments. In March 1926, a meeting was held in London of the Ministers of Labour of Belgium, France, Germany, Great Britain and Italy in order to discuss technical difficulties in the way of ratification of the Convention. Among these technical difficulties was that of the definition of hours of work. The correspondence between Governments prior to the meeting indicated a general readiness to accept the notion that hours of work should not be restricted to effective work. A number of explanations were given concerning national practice, from which it was made clear that even where the phrase "actual work" was added to the term "hours of work" this phrase would be interpreted in practice to mean all time at which the employee is at the disposal of the employer.

Ultimately, the London Conference adopted the following formula, which brought together not only a definition of working hours but also an indication of those rest periods which were excluded from the working hours limited by the Convention. The London definition reads as follows:

"Working hours are the time during which the persons employed are at the disposal of the employer; they do not include rest periods, posted in accordance with Article 8, during which the persons employed are not at the disposal of the employer."

When in 1929 and 1930 the question of the limitation of hours of work in commerce and offices was before the International Labour Organisation, an effort was made to apply the experience gained with regard to the industry Convention, and avoid the same difficulties. It was therefore proposed to include in the text of the commerce Convention the definition of hours of work elaborated by the London Conference. The consultation of Governments following the first discussion made it clear that the

majority considered that the London formula would provide an adequate definition for hours of work.

It should be noted, however, that a few Governments proposed in 1930 that some words should be added to the definition to indicate that the employee must be at the disposal of the employer in the workplace or some other place indicated by the employer as his place of employment in order to ensure that time during which he is elsewhere, such as travelling time, or in his own home ready to be called would not be included in working hours. Nevertheless, the discussion at the 1930 Conference made clear that on the whole it was sufficient to maintain the London formula.

However, in this and in the more recent Conventions adopted by the International Labour Conference, a modification has been made in the London definition, since provisions have not been included in the Conventions concerning the posting of notices in regard to rest periods. Therefore, an attempt was made to generalise the clause concerning rest periods and to define hours of work as being the time during which persons employed are at the disposal of the employer, not including rest periods during which they are not at his disposal. This more general definition, however, still leaves some doubt as to what is meant by rest periods during which the employee is not at the disposal of the employer.

Attention has been called to the need to distinguish between 10 or 15-minute rest periods which should be considered breathing spells during active work and thus included in hours of work, and longer breaks or rest periods of half an hour or more during which the worker is not under the control of the employer. It is therefore suggested that a more complete definition of hours of work might introduce the notion of the workers' freedom to dispose of his own time and movements. In this way it would be possible to indicate that mere breaks in the normal routine of work which are under the control of the employer are considered part of hours of work; only those times in which the worker is free to determine how he wishes to dispose of his time shall be excluded from the working period.

If the Conference considers it desirable to introduce this notion into a definition it would not be necessary to maintain any reference to rest periods since it would be clear that rest periods would be excluded from hours of work if they are of such a nature that the worker may do with them what he pleases and that they would be included if they are merely a break in the normal hours of

work, determined and regulated entirely by the employer. Such a definition would have the further advantage of making clear that time spent in changing clothes, putting away of tools, or any other similar activities which are carried on subject to the will of the employer must be included in hours of work. Whether certain of these activities form part of the normal hours of work or whether they should be treated as extensions will be examined below. Travel time from the worker's home to the place of work, or any other designated spot, would be automatically excluded as long as the worker was free to determine his own movements.

It is suggested that Governments might be consulted as to the advisability of including a definition of hours of work in the proposed regulations, and of defining the term "hours of work" to mean the period during which the person employed is at the disposal of the employer and is not free to dispose of his own time and movements.

§ 2. — General Limitation of Normal Hours of Work for not Necessarily Continuous Processes

1. LIMITS OF NORMAL HOURS

It has been indicated above that the proposed international regulations are intended to cover a wide variety of persons and undertakings. The problem to be determined here is what methods of limitation should be used and what restriction should be placed on the hours of work of the persons covered by the regulations. It has been pointed out that it seems desirable to include in any regulations a definition making clear what work is intended to be covered by the term "hours of work", but no indication has been given as to what limits should constitute normal working hours. It should be noted that by the expression "normal" is meant those hours of work which may be worked in any week or in any specified longer period without having recourse to such extensions as may be authorised by any other articles of the proposed international regulations. Whatever limits are set, "normal hours of work" would thus be regarded as the greatest number of weekly hours which according to the regulations could be worked as a regular practice; it should be noted that a number of hours in excess of the normal limits may be permitted for preparatory and complementary work, essentially intermittent

work, emergencies and other exceptional circumstances, which will be discussed in the following chapter. However, any such hours will be deemed to be extensions and do not form part of the normal hours of work limited by the regulations.

Before discussing what limits should be placed on normal hours of work it may be well to summarise briefly the circumstances under which reduction of hours of work has come before the International Labour Organisation. It will be recalled that although the question of hours of work has been before the International Labour Organisation from its first meeting in Washington in 1919, the present discussion grows directly out of the resolution adopted by the Twenty-third Session of the Conference in 1937, stating that "the economic situation and the attempts which have been made to deal with the question show clearly that efforts should be directed towards the adoption of a general convention." It was the desire of the Conference that the Governing Body should examine the situation in regard to hours of work and consider placing on the agenda of the Conference the question of the generalisation of the reduction of hours of work in all economic activities not covered by the international Labour Conventions on the reduction of hours already adopted. Consequently, at its Eighty-first Session in October 1937, the Governing Body considered the Conference resolution and placed the generalisation of the reduction of hours of work on the agenda of the 1938 Session of the Conference.

Although no reference is made in the decision of the Governing Body to the limitation which is to be placed upon hours of work, it is clear that the limits under consideration are to be based upon the Convention establishing the principle of the 40-hour week, adopted by the Conference at its Nineteenth Session in 1935. It will be remembered that this instrument provides that each Member of the International Labour Organisation which ratifies it declares its approval of the principle of the 40-hour week applied in such a manner that the standard of living is not reduced in consequence, undertaking to apply this principle to classes of employment in accordance with the detailed provisions to be prescribed by such separate Conventions as are ratified by that Member. The Conference has embodied this principle in the Reduction of Hours of Work (Public Works) Convention, 1936, and the Reduction of Hours of Work (Textiles) Convention, 1937, thus covering two branches of economic activity, namely, persons directly employed in building or civil engineering works financed

or subsidised by central governments, and persons employed in the textile industry. With a limit of 42 hours substituted for that of 40, the principle was also applied by the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935, to persons employed in certain operations in glass works where bottles are produced by automatic machinery.

It was also the 40-hour week which was under discussion in the case of the proposed Draft Conventions for the iron and steel, building, coal, printing and chemical industries in the years 1935, 1936, and 1937. Further it may be mentioned that ever since the resolutions adopted by the Governing Body in January 1932 and by the International Labour Conference at its Sixteenth Session in April 1932, it is the limit of 40 hours which has been referred to explicitly or implicitly in all resolutions of the Conference or of the Governing Body on this subject. It will thus be seen that the discussion of the International Labour Conference in 1938 arises directly out of proposals for the 40-hour week.

It appears to the Office to be following the intentions of previous Sessions of the Conference to propose that Governments be consulted as to the desirability of limiting normal weekly hours of work to forty.

A weekly limitation of hours without any daily limitation is suggested as being in accordance with the decisions of the Conference. The Conventions on hours of work in industry and in commerce which set as a maximum limitation a 48-hour week, provided in addition for an 8-hour day. In the case of the reduction of hours from 48 to a lower limit such as 40, it no longer seems necessary to indicate provisions in regard to a daily limitation. Such provisions seem undesirable for two reasons. In the first place, the 8-hour day, as has been shown in the previous sections of this Report, is in effect in a majority of countries and would not therefore constitute a reduction in hours. In the second place, the reduction of hours to 40 makes unnecessary further restrictions on daily hours; any adjustment that would be required in the distribution of the weekly hours would be determined by either the competent authority or customary practice in different countries.

In subsequent sections of this chapter the possibility of a different limitation of normal hours of work is proposed in the case of certain categories of undertakings or occupations which, in view of the nature of their work, appear to require special treatment. As regards the majority of economic activities covered by the regula-

tions, however, it seems desirable to consult Governments on the basis of a general limitation of normal hours of work to 40 per week.

2. POSSIBILITY OF CALCULATING NORMAL LIMITS OF HOURS OVER A PERIOD EXCEEDING ONE WEEK

Having indicated what weekly limits might be included in international regulations, consideration will now be given to the desirability of including provisions in such regulations permitting the hours of work to be calculated over a period exceeding one week. Experience in applying limitations of hours of work to the practical needs of industry and commerce has shown that too rigid limitations may occasionally give rise to difficulties. Flexibility in regulations may be obtained by a variety of measures. These may, for instance, provide for the calculation of normal hours of work as an average over several weeks, permit the making up of lost time or authorise extensions of hours of work beyond the normal limits provided. These various methods are often found concurrently. The question of making up lost time will be discussed at the end of this section and that of the extensions of hours in the next section. The question discussed here is that of permitting the calculation of normal hours of work as an average over a period exceeding one week.

In order to secure flexibility national regulations provide for averaging for certain categories of undertakings or in certain circumstances. These provisions present a very great degree of diversity and cannot be reduced to a common pattern.

Some national regulations do not specifically indicate the reasons for which recourse may be had to averaging; others, however, give an indication of the circumstances in which averaging is desirable. These may be divided roughly into those tending to permit an arrangement of the schedule of hours of work for the mutual convenience of the employer and the worker, those designed to meet fluctuations caused by natural phenomena, as well as those of an economic character.

Averaging, usually over a short period, may arise solely out of the desire for a convenient arrangement of working schedules, and may be used for instance to permit of the displacement of a weekly rest day, to enable the working of an 11-day fortnight, or to arrange the time-tables of persons employed in shifts, particularly if the day and night shifts involve a working week of different lengths.

Irregularity due to natural causes arises, for instance, in industries subject to the influence of the seasons. In other cases, the fluctuations involved are of a different character and may, for instance, depend on meteorological conditions.

Averaging is often permitted for economic considerations in the case of industries which are producing mainly to order and whose customers require the goods delivered at particularly short notice.

If hours are lost for any reason in any one week they can, when averaging is permitted, be made up in subsequent weeks. This latter restricted form of averaging may, however, be provided for in international regulations even in the absence of any provision permitting averaging in general, and it will be discussed later.

Earlier Conventions on hours of work allowed averaging on certain conditions. Thus the Hours of Work (Industry) Convention, 1919, which provides for a 48-hour week, permits recourse to the calculation of hours over three weeks where persons are employed in shifts. In addition, in exceptional cases where it is recognised that the limits of hours laid down in the Convention cannot be applied, but only in such cases, agreements between workers' and employers' organisations concerning the daily limit of work over a longer period of time may be given the force of regulations, if the Government, to which these agreements shall be submitted, so decides. A similar provision is also to be found in the Hours of Work (Commerce and Offices) Convention, 1930, with the exception that an act of the public authority is alone required. In the Draft Conventions adopted to give effect to the 40-hour week Convention, 1935, both for public works and the textile industry, the limit of hours fixed is on the basis of an average of 40 hours per week.

The necessity of permitting averaging would appear to be stronger the shorter the working week. The shorter the normal limits of hours, the more the employer should be in a position to make full use of the hours permitted by law. In the absence of averaging, it is well known that in a large number of undertakings the hours actually worked (excluding overtime) will tend to fall well below the limit of hours set. This is due to momentary lack of orders, temporary stoppages due to weather, breakdowns, lack of supply of materials or other reasons. If neither averaging nor the making up of lost time are allowed, these hours are lost. If the normal limits of hours are reduced, such lost hours may constitute a higher proportion of the possible number of hours, and the economic consequence of the loss will be greater.

If it was deemed desirable to include provisions permitting the

calculation of hours as an average in Conventions dealing with individual industries in 1936 and 1937, there would appear to be even stronger reason for including such provisions in proposed regulations attempting to cover industry, commerce, and other forms of economic activity. The broader the scope proposed, the more varied are the situations which have to be met, and the greater, therefore, the degree of flexibility required.

In view of the practice as shown by national and international regulations, and the necessity referred to above of permitting a certain degree of flexibility, it would appear desirable to ask Governments if they wish the international regulations to make it possible for the competent authority to permit by regulation the calculation of the normal limits of hours of work as an average over a period exceeding one week.

While providing for averaging, regulations on this subject should contain certain stipulations regarding the method of calculation and the procedure of authorisation in order to prevent possible abuse of the facilities granted.

The analysis of national regulations made in a previous chapter has shown that in most countries a variety of methods are used to achieve this result and that each of the limits fixed, such as those restricting the number of hours which may be worked in any day or week or the period over which hours may be calculated, vary widely. For instance, the regulations defining the period of averaging may set limits varying from two weeks to one year for different industries or occupations even within the same country.

It would not appear possible to include in international regulations covering a very great variety of industries and branches of economic activity detailed provisions restricting the use of averaging which would be sufficiently flexible to meet all the possible situations in which this method of limitation may be resorted to. The conclusion is therefore reached that the international regulations will necessarily have to leave it to the competent national authority to impose such restrictions as it deems fit when it authorises the calculation of hours over a period exceeding one week.

A few general principles may, however, be laid down in the international regulations regarding the procedure to be followed in such cases. First, the principle that the calculation of the hours of work as an average should require a specific act of the competent authority; second, that the competent authority should first consult the organisations of employers and workers concerned; and

third, that the competent authority should determine the period over which the limit of hours may be calculated. It is suggested that these might be indicated as the minimum obligations which the competent authority should be required to recognise in virtue of the international regulations.

The reason for requiring averaging to arise only out of an act of the competent authority lies mainly in the fact that if supervision is to be adequately exercised, the competent authority must have the opportunity of specifying the conditions under which averaging is to be allowed. The analysis of national regulations has shown that this method of calculation is always subordinated either to an act of the competent authority or to an agreement between employers' and workers' organisations, or to the fulfilment of certain other specified conditions. Sometimes several of these requirements may have to be complied with. The four Conventions on hours of work previously referred to all require some such condition. In the case of employment in shifts, where hours may be calculated over a period not exceeding three weeks, no such condition is, however, laid down in the Hours of Work (Industry) Convention.

The consultation of employers' and workers' organisations concerned would facilitate the task of the competent authority in determining the conditions to which averaging should be subjected in the particular industry or category of undertakings involved and would assist it in securing the co-operation of the organisations concerned in the task of supervising the enforcement of the regulations. In this connection, it should be noted that the Draft Conventions for the reduction of hours of work in public works and in the textile industry call for such consultation.

Among the other possible provisions restricting the distribution of hours of work where averaging is permitted, the most important are those determining the period over which hours should be calculated. The above-mentioned Draft Conventions applying the principle of the 40-hour week require the competent authority to fix this period and it is proposed to consult Governments on the inclusion of a similar provision in the proposed international regulations.

Although the Draft Conventions on hours of work in public works and the textile industry also require the competent authority to fix the maximum number of hours that may be worked in any week, such a stipulation, while applicable to a particular industry, might give rise to considerable difficulties in international regulations

of a broad scope. It is not therefore proposed to consult Governments on this point.

The Office accordingly proposes that Governments be consulted on the desirability of including in the international regulations a provision enabling the competent authority in each country to permit by regulation the calculation of the normal limit of hours of work as an average over a period exceeding one week, with the obligation in such cases to:

- (a) consult the organisations of employers and workers concerned, where such exist, and
- (b) determine the period over which the limit of hours may be calculated.

§ 3. — Limitation of Normal Hours of Work for Necessarily Continuous Processes

In the case of necessarily continuous processes, some special regulation would appear to be required in order to ensure the most convenient arrangement of shifts. Such provisions have in practice been found in the national regulations of nearly all countries.

If the work has to be carried on continuously by a succession of shifts, there is considerable practical advantage, in certain industries, in so arranging the schedules of hours of work that one group of workers replaces at the work place another group of workers of equal number and qualifications. If such a system of successive shifts is to be followed, the simplest form of organisation which provides for hours of work approximating to 40 is the 4-shift system. In such a case, the 168 hours of the week divided between the 4 shifts yield an average 42-hour week. It is therefore proposed to suggest this limit to Governments in the case of workers engaged on such processes.

If the 4-shift system is applied, as it frequently is, on the basis of 8-hour shifts, the length of each individual working week is likely to vary slightly, the cycle being usually completed in a period of 4 weeks. For this reason it is suggested that the average weekly limit of 42 hours be calculated over a period exceeding one week.

Though a cycle of 4 weeks is sufficient for the ordinary application of the 4-shift system, it has been found in practice that hours of work in continuous operations are sometimes calculated over a

longer period. For instance, in France this period is usually of 12 weeks. Such an extension may permit of systems of rotation involving less frequent changes in the times at which each group starts work and thus minimises the social effects of the irregularity of shift work. It is accordingly suggested that the competent authority in each country should consult with the employers and workers organisations concerned where such exist and by regulation determine the period over which hours should be calculated. From the point of view of the international regulations it is important to ensure that the period is in fact determined, as otherwise abuses could occur undetected.

In view of the fact that this limit of 42 hours constitutes a departure from the normal limit of 40 hours a week proposed above, it is suggested that the higher limit should be subject to certain safeguards. The international regulations might prescribe that the limit of 42 hours instead of 40 should be authorised only in those cases in which it is justified by the necessarily continuous character of the processes. The necessity of continuity is, however, to some extent a matter of interpretation, as both technical and economic factors have to be taken into account. In practice it has been found that there are considerable differences as to the processes which operate continuously from one country to another. For instance, steel furnaces do not operate on Sundays in Great Britain, but are usually operated continuously in the United States. Often such divergences depend on differences in the technique used in the operations and thus may vary from time to time when new processes are introduced. In these circumstances, it would appear to be difficult to include in the international regulations any list of necessarily continuous operations, and it is suggested that the competent authority be required to determine by regulation in each country to which the international regulations apply the processes in respect of which this limit should apply. The competent authority might be obliged to consult with the organisations of employers and workers concerned before issuing regulations.

It may also be pointed out that where the process is necessarily continuous but where it is not customary for work to be carried out by a succession of shifts, the 42-hour average limit is not required. For instance, if, instead of one shift succeeding another of roughly equivalent composition, a rotation system is established according to which individual workers are replaced by others on certain days of the week, turn and turn about, with 8-hour shifts, as is done, for example, in electricity works or telephone exchanges

in a number of countries and in steel works in the United States, then the 40-hour week may be applied.

It is therefore suggested that the Governments be consulted on the limitation of normal hours of work to an average of 42 hours, calculated over a period to be determined by the competent authority, for necessarily continuous processes, namely, the processes required, by reason of the nature of the process, to be carried on by a succession of shifts without a break at any time of the day, night or week, with the obligation on the competent authority in each country to determine by regulation, after consultation with the organisations of employers and workers concerned, where such exist:

- (a) the processes in respect of which this limit should apply; and
- (b) the period over which the limit of hours may be calculated.

§ 4. — Special Limitation of Normal Hours of Work for Certain Categories of Undertakings or Occupations

1. POSSIBILITY OF NORMAL WEEKLY HOURS OF WORK IN EXCESS OF 40

The preceding sections of this chapter have dealt with the normal weekly limits that might be fixed by international regulations for hours of work in general. However, the special nature of the work of employees in certain categories of undertakings or occupations gives rise to a number of problems differing from those discussed above. In the following pages, methods of limiting hours of work for certain special categories of occupation will be dealt with, and an examination made of what different normal limits might be fixed by international regulations, taking into consideration both the nature of the work involved and the practice followed in this regard in national regulations.

In most establishments which come under the general definition of industrial or commercial undertaking, the work of the greater part of the employees is more or less steady and regular, requiring a fairly constant degree of effort or attention throughout most of the working period. It is for this reason that in defining and limiting normal hours of work, as has already been indicated, the working period is considered as the whole period during which the

employee is at the disposal of the employer. It will be recalled that short breaks or pauses which occur during the ordinary routine of work are not deducted from the normal hours of work, since they can be controlled by the employer and can be arranged in accordance with whatever time-table or schedule is most satisfactory for the establishment concerned.

In contrast, however, to the hours of work of almost all industrial undertakings and a certain number of commercial establishments, such as wholesale trade, banks, and offices, etc., the working hours of certain undertakings are largely dependent upon service to customers and upon factors outside the control of the employer. For example, in shops the nature of the work of the employees may vary considerably, not only from that of other commercial establishments, but also in accordance with the size of the shops and the kinds of products sold. Similarly, in hotels, which must be open to serve customers at any hour, there may be long periods during which a large proportion of the employees must be on duty available to reply to possible calls, but during which they may not be carrying on any active work. Again, in certain public utility enterprises, such as the postal, telegraph, and telephone services, there may be certain rush periods followed by certain long slack times during the day when a substantial proportion of the employees must be at hand but may not be called upon to work. Other examples of the same kind of broken periods of work are found for certain categories of work in hospitals, which must be prepared to function at any time but where the working day, or night, may consist of inconstant work. Similarly, in theatres and other places of amusement, it is frequently necessary for a large number of the employees to be on hand in case of need, but no active work may be carried on during periods of one to two hours, although the employee is not free to dispose of his own time.

In order to take into consideration the broken character of the work in these occupations many national regulations have provided for longer limits of hours in such cases. For example, instead of regulating the hours of work for such occupations, they may place limits on hours of duty or hours of attendance. The terminology in the national regulations varies considerably, some of them providing for longer normal hours of work for certain categories of employees, others providing for hours of duty, still others determining hours of presence, hours of service, or hours of attendance, according to the nature of the work carried on.

Some regulations distinguish clearly between whole establishments, where the work of the majority of the employees consists of periods of active work interrupted by extended periods of reduced activity or mere attendance, and the work of individual employees whose work consists partly or chiefly in watching or is of an intermittent character. In the latter case, as a rule, special provisions appear in the regulations authorising longer hours for individuals so occupied.

It is important from the point of view of international regulations to distinguish clearly between the extended hours permitted for certain individuals engaged in an intermittent occupation in an industry or establishment coming under the normal hours of work provisions and the hours of work that may be permitted for the staff of whole establishments or branches thereof because of the nature of the work of the establishment or branch. The employees coming within the former group, such as caretakers, gatekeepers, doorkeepers, etc., carry on exceptional functions differing from the occupations of the majority of the staff of the undertaking; special provisions covering these employees will be dealt with in a later section. It is quite clear that this kind of work may occur for certain employees in any industrial or commercial undertaking irrespective of the work carried on by the establishment. The longer normal hours being considered in this section are only those which may be applied to establishments in which a substantial or major proportion of the employees are occupied on work which varies in intensity and includes periods of inactivity. In this connection, it should be noted that while national regulations occasionally apply the same provisions to individual employees or to whole establishments, taking into consideration the nature of the work involved, a distinction is usually made between that work which is composed entirely of mere presence on duty and between inconstant work which consists of periods of active work coupled with periods of waiting.

It may be useful to indicate here some examples of the kinds of provisions occurring in national regulations to deal with this problem. In the *German Hours of Work Order* it is stated that in the cases of branches of industry or categories of employees whose work regularly and to a considerable extent includes periods of mere presence on duty, arrangements may be made by collective rules or by the Federal Minister of Labour or the Labour Trustee for hours of work longer than the normal. In the *Norwegian* legislation it is provided that if, on account of the nature of the establishment

or work, the work of certain employees or classes of employees is interrupted by periods when there is little or no work to be done but it is impossible for the employees in question to leave their workplace, the normal hours of work of the employees in question may be extended for two additional hours. In the *Italian* regulations it is provided that the definition of hours of actual work shall not be deemed to cover any occupation which requires only discontinuous work or mere being in attendance or watching. The competent authority is then charged with the determining of normal limits for all persons or occupations thus exempted from the normal hours of work. In virtue of this provision longer than normal hours have been authorised for undertakings or branches of undertakings.

In view of the diversity of the terminology found in the different countries in order to cover the concept of hours of interrupted work, it does not seem desirable to the Office to bring a new definition into international terminology. It will be recalled that in 1930, at the time of the adoption of the Hours of Work (Commerce and Offices) Convention, this problem was discussed, and the conclusions reached at that time were in favour of either special treatment or complete exclusion of such categories of occupations. The 1930 Convention provides that regulations by the public authority shall determine the permanent exceptions which may be allowed to shops and other establishments where the nature of the work, the size of the population, or the number of persons employed render inapplicable the working hours fixed in the Convention. At the same time, establishments for the treatment and care of the sick, infirm, destitute, or mentally unfit; hotels, restaurants, boarding houses, clubs, cafés and other refreshment houses; and theatres and places of amusement were excluded entirely from the scope of the Convention, although three Conference recommendations called for special enquiries in regard to their hours of work.

At the present time it is suggested that these establishments should be brought under the scope of any new international regulations, but in view of the nature of their work and the practice followed in national regulations it seems advisable to propose some special treatment for them. The Office therefore suggests that Governments might be asked to determine longer normal limits for such occupations.

In order to avoid introducing a new definition of hours of duty or hours of attendance, Governments might be consulted as to the advisability of permitting the competent authority to authorise

normal weekly hours of work in excess of forty in respect of any undertaking or branch thereof in cases in which the nature of the work of a considerable proportion of the persons employed is such that it comprises periods of activity interrupted by substantial periods of inactivity or mere presence. If this principle is admitted, it might be applied to the categories of undertakings discussed below.

In addition, it should be noted that not all persons in such undertakings are necessarily subject to broken periods of work. For example, in hotels, the work of some employees may be quite constant; similarly, in shops and other retail establishments it is possible that certain workers or employees, such as the clerical staff, may be subject to work entirely similar to that of industry and commerce in general. Although it would be impossible in international regulations to lay down exact criteria defining which persons in undertakings should come under the extended hours permitted to such establishments and which persons should be subject to the normal hours of work provisions of industry or commerce in general, this responsibility might be left to the competent authority.

In order to avoid any likelihood of abuse by the subjecting of employees whose work is constant to the longer hours provisions permitted to those whose work is broken, a further question might be asked of Governments. In addition to granting the competent authority the possibility of authorising longer weekly hours, it should be indicated clearly that the competent authority, when making these concessions to whole undertakings, should indicate to which categories of persons the longer limits of hours might be applied.

Governments might therefore be consulted as to the desirability of requiring the competent authority to determine the categories of persons employed in any of the above undertakings or any branches thereof in respect of whom the longer limit might, owing to the nature of their work, apply.

If it is agreed that certain categories of establishments should be granted longer limits of normal hours in view of the nature of the work carried on, it will be necessary to indicate to just what categories of establishments such limits may be applied and to fix these limits.

(a) *Retail and Service Trades*

A variety of methods have been employed to meet the special needs of retail establishments and service trades. A number of national regulations exempt retail trades entirely from the normal hours of work provisions; others, such as in *Australia, Austria, France, Greece*, etc., provide longer hours for certain categories of establishments, such as food shops, butchers' and bakers' shops, stands in or about railway stations selling tobacco, books, newspapers, chemists shops, petrol stations, establishments distributing spare parts required by motorists in the event of breakdown, hairdressers and beauty parlours, etc. It is clear that the hours of business of retail establishments of all kinds must be accommodated to the demands of the customers and cannot be controlled entirely by the desires of the employer or the employee.

As has already been indicated in regard to the shift system, one of the methods of ensuring constant service to the public is by the use of shifts. However, while this may be practicable in large shops, in small establishments it is frequently extremely difficult to restrict the hours of work of employees to a rigid schedule. Furthermore, a number of national regulations during the last few years when attempting to reduce hours of work have fixed upon 44 per week. It is clear that this would permit shops to remain open under an eight-hour day for five and a half days per week. In this way, by a system of varying of the weekly half-holiday, or the use of shifts, it would still remain possible for the employer to meet the needs of most customers and ensure normal operation of his shop through either five and a half days per week, or six days if he gave the half-holiday in rotation.

However, for establishments retailing food and other commodities which are of prime necessity or which must be available to the public according to custom during extended hours of the day and night, and sometimes also on the weekly rest day, it might be advisable to propose a 48-hour limit. As custom varies in different countries, it would not be possible in international regulations to list the shops or categories of shops whose hours might be extended from 40 to 48, but the criterion to be applied by the competent authority might have as a basis the services which are considered, in different countries, as required to be at the disposal of the public during prolonged periods of the day or week or at unforeseen times. Examples of such services have been given above.

It might therefore be well to ask Governments if they would be favourable to providing in the international regulations that a

normal weekly limit of hours not exceeding 44 may be applied by the competent authority to all or certain persons employed in establishments in the retail and service trades. In addition, it is suggested that the further question might be asked as to whether, notwithstanding the above, a normal weekly limit of hours not exceeding 48 might be applied by the competent authority to all or certain persons, employed in establishments in the retail and service trades which, owing to their nature, are customarily required by the public to remain open during prolonged periods of the day or week, or at unforeseen times.

(b) *Hotels, Restaurants, and Similar Establishments*

The limitation of hours of work for persons employed in hotels, restaurants, and similar establishments gives rise to analogous problems, owing to the intermittent character of the work. On the one hand, it is usually necessary to enable these establishments to operate continuously throughout the day and night, and on the other hand, the work of a substantial proportion of the employees often includes work requiring less constant attention or consisting largely, as has already been indicated, of periods of watching. In order to meet the special needs of the establishments concerned many national regulations have provided for shift operation, and some regulations have also provided for longer hours considered equal to hours of work in industry and commerce in general, either for all employees in these establishments or for those whose work is largely intermittent. Still other national regulations have exempted hotel employees entirely from the provisions governing hours of work. As has already been indicated, in the Draft Convention adopted in 1930 hotels and similar establishments were exempted from the scope of the Convention, but a special Recommendation called for enquiries into the hours of work in hotels. In national regulations, hours of work in hotels tend to vary from 40 to 60.

In view of the variety of regulations and the wide scope of the employees to be covered by any proposed international regulations, it is suggested that the competent authority might be permitted to authorise hours of work exceeding 40 a week for employees in hotels. These longer limits should not, however, be permitted to exceed 52 hours a week. It should be clearly indicated that the competent authority would be obliged to determine which employees would come under the higher limits and which under the normal 40-hour limitation, since those employees, such as chambermaids or cooks, whose work was not of an intermittent character would have to come under the latter restriction.

Governments might therefore be consulted as to the inclusion of a provision in the international regulations permitting a normal weekly limit of hours not exceeding 52 to be applied by the competent authority to all or certain persons employed in hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses.

(c) *Curative Establishments*

In order to bring hospitals and other establishments for the treatment and care of the sick, infirm, destitute, and mentally unfit within the scope of international regulations, the special character of the work involved must also be taken into account. It is evident that certain services in hospitals and similar establishments must either function continuously or be prepared to function at any time and that the hours of work of the staff must therefore be arranged so as to meet any contingencies, but the continuous operation of the establishment does not necessarily mean prolonged hours of work for the whole staff. Certain workers in hospitals carry on work that is not related to the service of patients, while others attending patients or on call prepared to carry on such work do not give prolonged or continuous attention to this work. In order to meet the special needs of hospitals it seems advisable to permit the competent authority to determine that for those employees whose work is not constant in nature, limits of hours exceeding the general normal limits may be permitted.

In view of the fact that in a large number of national regulations it has been found possible to apply the 48-hour week to the majority of the employees in hospitals and that a certain number of regulations apply even shorter limits or distinguish between those employees coming under the normal limits and those coming under prolonged hours, it might be possible to propose to Governments that the international regulations include a provision to the effect that a normal weekly limit of hours not exceeding 48 may be applied by the competent authority to all or certain persons employed in establishments for the treatment or cure of the sick, infirm, destitute, or mentally unfit.

(d) *Theatres and Other Places of Amusement*

In order to limit hours of work in theatres and other places of amusement, it may again be necessary to take into consideration the special nature of the work. Obviously, many employees in theatres or similar places carry on ordinary work not in any way differing from that of industry or commerce in general. However

engagements are frequently of short duration, and there are likely to be many periods when a substantial number of employees, such as box-office attendants, stage managers, ushers, and even actors and actresses, need only be in the theatre in order to wait for customers to come in or for the performance to begin, their periods of work being therefore shorter than the periods of attendance. As the work of both the individual employees and of the establishments themselves in all kinds of places of amusement is largely dependent not so much on the will of the employer but rather on the fluctuations of public demand, national regulations have sometimes either excluded such occupations entirely from hours of work limitations or have fixed special longer limits.

Governments might be asked, therefore, whether they would favour a provision in the international regulations permitting a normal weekly limit of hours not exceeding 48 to be applied by the competent authority to all or certain persons employed in theatres or other public places of amusement.

(e) *Other Undertakings*

The special categories of occupations and undertakings described in this section have been chosen because the nature of the work seems to warrant longer normal hours of work. However, these categories have been selected as examples of the kind of occupation for which such longer limits may be applied, and are not necessarily the only cases to be considered.

It might therefore be desirable to ask Governments if the nature of the work involved, or the customary practice in a number of countries, would make it desirable to prescribe similar longer work limits for any other classes of undertakings, and if so, what limits of hours should be fixed.

2. POSSIBILITY OF CALCULATING THE LIMITS OF HOURS OVER A PERIOD EXCEEDING ONE WEEK IN THE ABOVE CASES

The special limitations proposed as normal hours of work for the various categories of undertakings or occupations have all been discussed on the basis of a fixed weekly limit. However, as was pointed out in a previous section of this chapter dealing with normal hours, it may be desirable to permit hours to be calculated over a period exceeding one week. It does not seem necessary to repeat here the advantages or disadvantages of permitting recourse to averaging, nor to analyse again the procedure or admini-

strative problems that may arise under such a system. It is sufficient to recall that the Office proposed that Governments might be asked whether they desired to permit the calculation of hours of work as an average, and if so whether the competent authority should, after consultation with the organisations of employers and workers concerned, determine the conditions under which averaging would be authorised. All the same motives and problems in regard to the period of calculation that were described under normal hours arise in regard to the special longer limits under consideration here.

It therefore seems desirable to ask Governments if they wish the international regulations to enable the competent authority to permit the calculation of the special limits of normal hours of work provided for the above categories of undertakings or occupations as an average over a period to be determined by such competent authority.

3. CONDITIONS FOR THE APPLICATION OF THE SPECIAL LIMITATION OF NORMAL HOURS OF WORK

It should be noted that the competent authority will have to determine a number of factors in applying the principle of the special limitation of normal hours of work for the categories of undertakings discussed above. These factors include not only the determination of the exact limits of normal hours within the limits set in the international regulations but also the categories of undertakings and the persons to which these limits are to apply. In addition the competent authority will have to determine the cases in which averaging may be allowed and the period over which hours may then be calculated.

Before making any of the above determinations, it would appear desirable that the competent authority should consult the organisations of employers and workers concerned where such exist. It is suggested that Governments be consulted as to the inclusion of such an obligation in the international regulations.

§ 5. — Making up Lost Time

1. PRINCIPLE OF MAKING UP LOST TIME

It may frequently occur in almost any type of undertaking that work has to be entirely stopped throughout the whole undertaking or in a branch thereof owing to circumstances beyond the

control of the employer. In so far as the hours lost can be made up within the period over which hours may be calculated, whether one week or more, no special provisions are required in international regulations to meet such a situation. However, the problem which is being dealt with here is to consider whether the international regulations should make provision for the making up of time lost when this is not otherwise possible within the limits of normal hours laid down.

These collective stoppages of work may involve considerable economic loss to the employer and may also imply a loss of wages to the worker. Reference has been made in an earlier chapter to the provisions for making up lost time which are to be found in many national regulations. In the absence of such provisions the employer will have either to lose production, resort to overtime, or temporarily increase the number of workers employed when that is possible. Each of these solutions involves certain disadvantages which can be avoided by permitting the time lost by the stoppages to be made up.

The making up of lost time is of importance not only in cases in which the weekly limit is a rigid one, but also under an averaging system. In the latter case, although lost time can be recovered even in the absence of a special provision to this effect to a much greater extent than if the weekly limit is a rigid one, provisions for making up lost time are sometimes found to be supplementary or alternative to averaging provisions in the same regulations.

It would therefore appear desirable to suggest to Governments that the international regulations should provide for the possibility of making up time lost through collective stoppages of work resulting from particular cases to be examined.

The cases in which collective stoppages of work arise most frequently and in which the provisions of national regulations permit the making up of lost time are: (a) accidental causes or cases of *force majeure*; (b) weather conditions; (c) public holidays falling on a working day.

These cases need little explanation.

(a) Where work is stopped owing to the failure of power or of light, lack of means of transport or lack of supplies, or to fire or accident rendering the productive equipment unusable, provision is frequently made for the making up of the time thus lost.

(b) The making up of time lost due to weather conditions is a problem of particular importance in the building and civil

engineering industry, but arises also in a number of other cases. Undertakings using wind or water as sole motive power, to which reference has already been made in the sections on averaging, and cases in which work is dependent on the state of the sea would also come under this head.

(c) A further case which may give rise to provisions for the making up of lost time is that of collective stoppages of work on public holidays falling on a working day.

It is suggested that Governments should be consulted on the desirability of providing in the international regulations for the possibility of making up for time lost through collective stoppages of work resulting from the three circumstances listed above.

2. CONDITIONS UNDER WHICH LOST TIME MAY BE MADE UP

If the Conference agrees to the above proposal it still remains to indicate the conditions which might be included in international regulations qualifying the use of these provisions.

Owing to the great diversity of the undertakings and occupations covered by the discussions of the Conference and the wide differences of national practice in this respect, it is suggested that it would be difficult to introduce into the international regulations specific provisions binding on all the parties thereto which could cover all possible cases. It is accordingly proposed that the competent authority in each country be entrusted with the determination of these conditions. It should be made clear in the international regulations themselves, however, that the competent authority is obliged to prescribe certain specific limits in the regulations issued in this connection.

An additional safeguard may be laid down in the international regulations by requiring the competent authority to consult the organisations of employers and workers concerned, where such exist, prior to determining these conditions. Such a pre-consultation can give an opportunity for these organisations to indicate the possible abuses and suggest the conditions best fitted to the industry or occupation under consideration.

Two of the conditions affecting the regulations regarding the making up of lost time are of particular importance. In the first place it is usual to fix the period within which lost time may be made up. This is necessary in order to prevent hours being prolonged at any time on the pretext that some time was lost at some

period in the past. It is also a necessary measure to ensure that it is the workers who effectively lost the hours referred to and not workers subsequently engaged who are called upon to work in addition to their usual hours.

In addition, care must be taken to see that the making up of lost time does not lead to an undue extension of the individual working week. It is therefore suggested that the competent authority in each country be required by the international regulations to determine the maximum extension of the weekly hours permitted.

The other conditions which may also be determined by the competent authority refer to the exact definition of the categories of undertakings or branches thereof to which the regulations apply, the maximum number of hours which may be made up in any year or other prescribed period, the maximum number of hours which may be worked off in any day, and the number of days in a year on which hours may be made up. The examination of national regulations made in a previous chapter shows the diversity of the restrictions of this nature imposed in certain countries. These restrictions, which set a variety of possible limits either singly or in combination, applying as they do to specific cases, go far beyond what it is reasonable to include in international regulations of a broad scope. In addition, the competent authority may also see fit to impose regulations requiring the notification to it of the hours lost and the times at which they are made up, as well as other special measures of supervision. These again vary too much in different circumstances for it to be reasonable for the international regulations to prescribe them. It is consequently suggested that Governments be consulted on the basis that the international regulations might contain provisions obliging the competent authority in each country to determine the conditions under which lost time may be made up without specifying all the exact points which the competent authority would have to regulate. In this respect the international regulations should confine themselves to requiring the competent authority to specify the period within which lost time may be made up and the maximum extension of weekly hours permitted.

The Office accordingly suggests that Governments be consulted on the desirability of the international regulations containing an obligation on the competent authority to determine, after consultation with the organisations of employers and workers concerned, where such exist,

(a) the conditions under which lost time may be made up;

- (b) the period within which lost time may be made up; and
- (c) the maximum extension of weekly hours permitted.

IV. — EXTENSIONS OF HOURS OF WORK

National legislation usually makes provision for the extension of normal hours of work under certain conditions in order to enable industrial and commercial undertakings to meet technical, economic or other requirements, whether of a temporary or permanent character. Such exceptions have also been provided for by the international Draft Conventions concerning the limitation of hours of work adopted by the Conference in the past, and the proposed international regulations must accordingly also make provision to this effect.

In considering the points upon which Governments should be consulted, regard must be had to the diversity of conditions prevailing in the various branches of activity falling within the scope of the proposed regulations without, however, losing sight of the fact that the main purpose of the regulations is to secure the general adoption of certain minimum standards of social protection. It may be pointed out that on the national plane also the legislature is often confronted by two opposite tendencies—one a tendency towards unity and the other a tendency towards specialisation—and that it often seeks to reconcile the two by confining itself to laying down certain principles in the general measures and entrusting their application to administrative authorities which, within the bounds of their competence, are in a position to take the varying needs of the interested parties into account. It would likewise appear advisable that the proposed international regulations should deal only with the points which are of general importance, leaving the competent authorities of each country to fix the methods of application best suited to national conditions.

A. — *EXTENSIONS FOR CERTAIN CLASSES OF WORK AND OCCUPATIONS*

This head covers a number of exceptions in respect of specified operations without regard to the nature of the undertaking concerned. In view of the wide diversity of national regulations and

industrial conditions in different countries, it is not proposed that the limits and conditions to be attached to these extensions should be laid down in the international scheme itself. Accordingly, it will be for those States that wish to avail themselves of the facilities allowed to regulate the methods of applying the exceptions in the manner suggested. Nevertheless, in order to secure adequate protection for the persons concerned, it is essential to place States availing themselves of this provision under certain obligations. With this object in view it is suggested that this class of exceptions should be governed by regulations specifying the conditions and limits to be observed by employers claiming the benefit of them. In order to associate the interested parties as closely as possible with the drafting of provisions which concern them so closely, it may also be recommended that the draft regulations should be submitted beforehand to the employers' and workers' organisations, where these exist, for their opinion.

§ 1. — Preparatory and Complementary Work

The term preparatory work signifies work involved in the preparation of workplaces and plant, and in starting up boilers and engines for the generation of power, heat and light, which has to be done before the general working hours of the undertaking in order to enable the main operations to begin at the ordinary time. The term complementary work signifies work connected with putting the workplaces, plant and machinery in order after the ordinary work of the undertaking is finished. This work may be performed by gangs of workers specially employed for the purpose, or, as in most small and medium-sized undertakings, as subsidiary work by the same workers who are engaged on the ordinary work of the undertaking during the rest of the day.

The legislation of most countries allows a permanent extension of hours of work for preparatory and complementary work. The draft international Conventions concerning hours of work also make provision for this type of exception. In order to prevent an unduly wide interpretation of the provision, however, the Conventions have followed the example of many national regulations by specifying that such extensions of hours may be approved only for work which must necessarily be carried on outside the limits laid down for the general working hours of the undertaking, branch or shift.

This provision seems to have stood the test of experience, and it is therefore suggested that the proposed international regulations should allow for an extension of hours of work on these grounds.

§ 2. — Essentially Intermittent Work

Provision has already been made for fixing special limits for normal hours of work in certain classes of undertakings for the whole staff or for that part of it which is engaged on work that does not involve continuous activity but includes fairly long spells of inaction or of mere attendance. Apart from these cases, however, particular employments are found in almost all undertakings to which the same considerations apply, i.e. persons employed to look after premises, doorkeepers, timekeepers, messengers, works firemen, etc. Most national laws and regulations allow a longer working day for this class of workers and the international Conventions concerning hours of work adopted in the past also provide for a similar exception. The actual formula used varies, however.

The Draft Convention of 1919 concerning hours of work in industry refers to "certain classes of workers whose work is essentially intermittent". At a Conference held in London in 1926 the Ministers of Labour of Belgium, France, Germany, Great Britain and Italy interpreted this expression in a restrictive sense, specifying that "it applies only to occupations such as those of doorkeepers, watchmen, works firemen and other workers, which are not concerned with production properly so called and which, by their nature, are interrupted by long periods of inaction during which these workers have to display neither physical activity nor sustained attention and remain at their posts only to reply to possible calls".

In the light of this interpretation, the Draft Convention of 1930 concerning hours of work in commerce and offices provided for an exception in slightly different terms in respect of "certain classes of persons whose work is inherently intermittent, such as caretakers and persons employed to look after working premises and warehouses". The Draft Conventions concerning public works and the textile industry, again following the interpretation given by the London Conference, specified that the exception applied to "persons engaged in occupations which by their nature involve long periods of inaction, during which the said persons have to display neither

physical activity nor sustained attention or remain at their posts only to reply to possible calls ”.

The latter formula appears to meet the case and it may therefore be recommended that provision be made for the granting of an exception of this kind. It should be made clear, however, that the exception applies only to essentially intermittent work, and in order to distinguish this extension of hours of work clearly from the cases already referred to for which special limits are set, a few examples should be given of characteristic occupations found in all kinds of undertakings, industrial as well as commercial, i.e. caretakers, night watchmen, doorkeepers, works firemen, etc.

§ 3. — Operations and Occupations which for Technical Reasons cannot be interrupted at will, or which are necessary to prevent the Loss of Perishable Materials or Goods

These two cases are closely allied. An extension of hours of work may be justified in order to safeguard articles of value to the undertaking, either because the technical processes involved cannot be interrupted, or because the articles concerned require to be dealt with immediately. Instances of the first case are found in certain processes in the chemical and metallurgical industries, and of the second in branches in which the materials used are highly perishable, e.g. the food-preserving industry, trade in perishable food-stuffs, or again, certain industries in which a product which has gone through one process will be irrevocably spoilt unless it is immediately subjected to another.

The study of national legislation shows that in many countries allowance is made for these contingencies, either by granting general extensions for reasons of technical necessity or urgency, or by defining more closely the circumstances justifying the exception. Different formulæ are used for this purpose.

In the first case, the extension may be worded in one of the following ways: work necessary for the performance of other operations in the same undertaking; processes which for technical reasons cannot be interrupted at will, if it is impossible to complete them within the normal hours in consequence of the nature of the work or of exceptional circumstances; work which is essential to avoid endangering the results of the work or to avoid causing material damage, etc.

Cases of the second kind are often covered by some other more general extension of hours, but are also sometimes provided for as a separate exception. In any event, however, the preservation of perishable goods or materials is a sufficient reason to justify some extension of normal hours of work.

Several of the international Draft Conventions adopted in the past also make allowance for such cases, although, in view of their narrower scope, over a more limited field. The Draft Convention of 1930 concerning hours of work in commerce and offices, for instance, allows temporary exceptions in order to prevent the loss of perishable goods or to avoid endangering the technical results of the work. The Draft Convention concerning public works adopted in 1936 provides that normal hours of work may be exceeded in cases where the continued presence of certain persons is necessary for the completion of a process which for technical reasons cannot be interrupted. And lastly, the Draft Convention for the textile industry adopted in 1937 allows an extension of the hours of work of certain persons in cases where their continued presence is necessary for the completion of a bleaching, dyeing, finishing or other operation or of a succession of such operations, which for technical reasons cannot be interrupted without damage to the material worked and which by reason of exceptional circumstances it has not been possible to complete within the normal limit of hours.

The practical necessities reflected in national regulations and recognised in international regulations appear to justify the provision of an extension of this kind in the proposed international scheme. Care must be taken, however, to keep in view the more general scope of the new scheme, while at the same time avoiding a wording so vague as to lend itself to different interpretations. The proposal upon which it is suggested that Governments should be consulted appears to meet this twofold requirement.

§ 4. — Work Necessary to co-ordinate the Work of Two Successive Shifts

Where work is organised in shifts, the foremen of the shift which is about to be relieved and of the relieving shift, or certain technical workers, must be allowed time to hand over the job and make any necessary reports. In some industries a whole shift may have to be kept on to finish certain processes before the new shift can begin its work.

This case is very similar to that of preparatory and complementary work and is accordingly covered in many laws by the exceptions provided for such work. Sometimes a lengthening of hours is implicitly tolerated. Nevertheless the special nature of the operations concerned has led some countries to provide for a separate extension of hours for work necessary to co-ordinate the work of two successive shifts.

In order to ensure that the proposed international regulations shall take account of all the contingencies liable to arise in the working of undertakings and to forestall serious technical difficulties in their application, the Office considers it advisable to consult Governments on this point.

§ 5 — Work Necessary for Stocktaking and the Preparation of Balance-sheets, Settlement Days, Liquidations and the Balancing and Closing of Accounts

At certain seasons both industrial and commercial undertakings have to perform special work such as stocktaking and the preparation of balance-sheets, settlement days, liquidations and the balancing and closing of accounts. In many cases this work cannot be performed during the ordinary working hours of the undertaking because the staff is then engaged on its usual duties. To meet this difficulty a large number of national laws and regulations provide for an extension of hours on this account. The Convention concerning hours of work in commerce and offices also allowed for an extension of hours for the same reasons.

It would be useful to have the opinion of Governments on this point.

§ 6. — Other Exceptions

It is possible that the foregoing list of cases in which an extension of hours may be allowed omits one or more classes of work or occupations which a Government would wish to have included. With a view to enabling any such Government to make further proposals, the Office considers it advisable to include in the list of points a question concerning suggestions as to any other exceptions.

B. — EXTENSIONS FOR ACCIDENTAL CAUSES

All industrial and commercial undertakings are liable to accidents and may have to carry out urgent work to their plant or meet cases of *force majeure* necessitating an extension of hours of work. When such contingencies arise the normal hours of work of varying numbers of workers have to be exceeded. The 1919 Convention, which limited hours of work to 48 in the week in industrial undertakings, and the subsequent Draft Conventions concerning hours of work, as well as a large number of national schemes, have defined the general conditions under which some latitude should be left to the employer in this respect. Extensions of hours on these grounds should be allowed only in so far as they may be necessary to prevent serious interference with the normal working of the undertaking. The proposed international scheme should unquestionably also provide for an exception under this head.

Further, where work is organised in successive shifts, the employer may be obliged by the unforeseen absence of one or more members of the relieving shift to keep on one or several of the workers who have done their turn for all or part of the new shift. The legislation must therefore furnish the employer with the means of meeting this situation, and some national schemes, as well as the international Draft Conventions framed to meet the special requirements of industries in which work is organised in successive shifts, allow an extension of hours of work in order to make good the unforeseen absence of one or more members of the relieving shift. It may be concluded that the proposed international regulations should also provide for an extension of hours to meet difficulties of this kind.

C. — EXTENSIONS ON ACCOUNT OF SHORTAGE OF SKILLED LABOUR

In many cases the reduction of hours of work will have the effect of obliging the employer to create new posts and engage extra labour. Where the job is one which does not require any special training, or which can quickly be learnt, the recruitment of additional workers will not give rise to any difficulty in regard to training. Sometimes, however, the job to be filled calls for a high

degree of technical skill or for long experience. There are cases in which the necessary training can be acquired in a few months, but in others it may take several years, as for instance in certain highly skilled trades in the printing industry. In fact, shortage of skilled labour is often put forward as a serious objection to the reduction of hours of work. Large undertakings sometimes overcome the difficulty by promoting workers from the grades below, provided that they have the necessary ability for the job. But where extra labour has to be found outside the undertaking and workers with the necessary qualifications and abilities are not available, an exception seems to be essential in the interests both of the undertaking and of the workers.

An exception on this ground is accordingly allowed by the legislation of several countries. The *Czechoslovak* Act of 1919, for instance, contained a transitional provision authorising the suspension of its application in occupations in which this difficulty was likely to arise. More recent examples are furnished by *France* and *Italy*, where the measures establishing a 40-hour week provide for an extension of hours of work in cases of shortage of qualified labour. *Spanish* legislation accepts this circumstance as a justification for granting a larger overtime allowance. Other examples are also given in the documentary part of this Report, showing that several schemes allow this exception for particular industries, especially the building industry. Further, it is relevant to recall that the Draft Convention concerning public works adopted in 1936 makes provision for normal hours of work to be exceeded where necessary to avoid serious hindrance to the execution of a particular public work on account of abnormal circumstances, such as the impossibility of engaging sufficient qualified labour.

It may therefore be regarded as desirable to provide for an exception of this kind in the proposed international scheme. In this case, as in that already discussed of extensions for certain classes of work or occupations, the competent national authorities should be given power to settle the necessary conditions. Nevertheless, in order to ensure the proper application of the exception, it is important that the national authority availing itself of this power should observe certain rules.

The existence of a real shortage of qualified labour should be duly ascertained by the competent authority, the investigation covering either a single undertaking, a class of undertakings, a specific occupation or a specified locality or region. It is hardly possible to suggest a fixed procedure to be followed in this matter,

since it may vary according to circumstances, nor is it practicable to lay down a maximum limit for the extension, or any other conditions which may be attached to it, in the international regulations themselves. However, it is to the general interest that the competent authority should be required to issue regulations fixing the conditions and limits subject to which the exception may be claimed. It would also be advisable that the authority should verify the accuracy of its information by consulting the employers' and workers' organisations concerned, where such exist.

D. — EXTENSIONS FOR CLASSES OF UNDERTAKINGS THE ACTIVITIES OF WHICH ARE SUBJECT TO SEASONAL VARIATIONS

All industrial and commercial undertakings necessarily have busy and slack periods according to business conditions. In the case of undertakings the activities of which are by their nature governed by changes in the season or in weather conditions—i.e. seasonal undertakings—these variations may be regarded as an inherent feature of their activities. This class of undertaking includes those in which the work is carried on in the open air or which, owing to their position, are exposed to the effects of weather and climate (e.g. building and construction undertakings, brick and tile works in which the drying is done by natural agents, mines and quarries with open workings or in mountain regions, etc.), those connected with agriculture and forestry (e.g. sugar-mills, alcoholic drink factories and canning factories, saw-mills, etc.), undertakings which have to meet seasonal needs (e.g. cure establishments, undertakings connected with the tourist and holiday traffic and those engaged in the clothing and fashion industries, etc.), and lastly, the various undertakings dependent on those mentioned above.

In view of the fluctuations in the activities of these undertakings, difficulties may arise in applying the normal limits of hours to them without modification. Accordingly, the legislation of many countries provides special schemes for their benefit. As shown in the documentary part of this Report, in a number of countries certain seasonal undertakings are excluded from the scope of the legislation, while in others provision is made for the granting of exceptions for these classes. Some schemes provide for the calculation of hours of work as an average over long periods during the year, or allow the employer to make good during the busy season time lost during

the slack season, or to give his staff rest periods in the slack season in compensation for overtime work during the busy season. Others again provide a special overtime allowance for various seasonal undertakings.

Which of these various methods of solving the problem may be regarded as the most suitable for adoption in the proposed international scheme? In the first place, can seasonal undertakings be excluded from the scope of the proposed regulations? In this connection, it must be noted that in countries where this course has been followed the legislation applies only to certain specified classes and not to all seasonal undertakings. This discrimination, based on essentially national grounds, is practicable in separate countries, but on the international plane it is scarcely possible to find a common criterion on the basis of which one group of seasonal undertakings rather than another can be entirely excluded from the scheme. Moreover, even were this method adopted the difficulty would not be solved, since other seasonal undertakings would remain within the scope of the national legislation on which the international scheme must be based. It must be remembered too that where national laws exempt certain classes of undertakings, provision is usually made for covering them by special schemes. In any case, therefore, the hours of work of workers in seasonal undertakings will have to be regulated in one way or another.

Another possibility to be considered is that of applying the normal scheme of hours of work to seasonal undertakings, their requirements being adequately met by the provision for the averaging of hours of work already suggested for inclusion in the international scheme.

Some national laws have, indeed, adopted this solution, while others have resorted to other methods which are similar to it, such as allowing the making up of lost time. It may be argued that it is also proposed to provide for this latter possibility in the international scheme. As already explained, however, the making up of lost time should be limited to time lost in consequence of a collective stoppage of work in the undertaking, whereas, as the documentary part of the Report shows, several national schemes allow it in respect of individual as well as of collective interruptions. Furthermore, cases may arise in which the averaging of hours or the making up of lost time is impracticable, either because the undertaking is open only during one or two seasons of the year, or because the workers are engaged for the season and are subsequently dismissed.

Under these circumstances, the question arises whether the case cannot be met simply by allowing the working of overtime. This

is in fact the method followed by the 1919 Draft Convention concerning hours of work in industry and by that of 1930 concerning commerce and offices. It must be pointed out, however, that these two Conventions allow overtime in case of "exceptional pressure of work" without specifying any definite overtime allowance, whereas the present proposal, for reasons given below, is to fix a definite overtime allowance without specifying the reasons for which it may be used. This allowance must be fixed primarily with reference to the needs of undertakings operating on a regular time-table, rather than to the special needs of seasonal undertakings.

But even granting the use of this method, would it not be possible to provide a special overtime allowance for seasonal undertakings?

The objection to this is that, as the documentary part of the Report shows; there are very few national legislations which specifically grant an overtime allowance to seasonal undertakings. Moreover, the regulations which do so differ from each other. Sometimes an overtime allowance is provided for seasonal undertakings generally; sometimes the ordinary overtime provisions are applied to some or all classes of seasonal undertakings subject to the removal of certain legal restrictions, and sometimes special overtime allowances are provided for certain branches or in special cases. The allowances themselves also differ from country to country and from industry to industry. It would therefore be a matter of some difficulty to fix a definite overtime allowance in the international scheme for seasonal undertakings in general.

It may therefore be concluded that seasonal undertakings will have to be dealt with separately in the proposed international scheme, and the chief problem lies in finding a solution capable of reconciling the various methods in force in different countries. Whatever the systems adopted by national legislation for seasonal undertakings, their effect is always to secure a temporary extension of hours, whether at the ordinary rate of pay, or compensated by higher pay or in some other way. It may therefore be suggested that the proposed international scheme should make provision for an extension of hours of work in undertakings the activities of which are liable to seasonal fluctuations.

Here again, as in the case of extensions for certain classes of work or of occupations, or of those allowed on account of shortage of qualified labour, the granting of such extensions of hours should be left to the discretion of the competent national authorities, which should exercise this discretion through the medium of

regulations issued after consultation with the employers' and workers' organisations concerned, where such exist.

In view of the great diversity of the branches affected and of their requirements, it is hardly practicable to define the undertakings which may be regarded as seasonal or to fix the maximum length of the working day or week, or of the extensions allowable, in the international regulations themselves. The conditions and limits to be observed by employers claiming the exception should also be fixed by the national authorities, but the international scheme should stipulate that such limits and conditions shall be fixed by regulations issued by the competent authorities.

E. — OVERTIME WITH INCREASED REMUNERATION

§ 1. — The Principle of Overtime

Although the term overtime may be used in various senses, in particular to designate all extensions of hours for which extra wages are paid, it is generally taken to signify temporary extensions of hours of work to which the employer may have recourse in order to meet economic or other requirements or any other unforeseen contingencies which may arise from time to time. It is in this sense that the term is used here. Overtime is allowed by the great majority of national laws, and even in the few cases in which it is prohibited in principle it is allowed in certain specified cases. All the international Conventions concerning the limitation of hours of work have followed the example of national legislatures in allowing overtime to be worked within specified limits and under specified conditions, and the proposed international scheme is bound to do the same. The question that arises, however, is how to limit the working of overtime. All the other extensions of hours of work considered above are limited to some extent by their very nature, whether they apply to certain kinds of work or classes of undertaking or are intended to meet certain special circumstances or a definite situation; whereas overtime proper, as defined above, concerns all undertakings and workers without exception (problems concerning the employment of young persons and women being left aside), although the purpose of the extension of hours is not definitely specified.

Accordingly, provision must be made to ensure, as is sometimes done in national legislation and in collective agreements, that the working of overtime remains exceptional and does not tend to become the general rule. The various methods used for this purpose include the definition of the reasons for which overtime may be worked, the fixing of a limit to overtime, the requirement of following a special procedure, and the fixing of a minimum rate of overtime pay. These methods are considered below with a view to ascertaining which of them may usefully be proposed for inclusion in the international regulations.

§ 2. — Reasons for granting Overtime

Will it be advisable to specify in the international scheme the reasons for which overtime may be permitted? The international Conventions of 1919 and 1930 concerning hours of work in industry and in commerce and offices, and the Convention of 1936 concerning public works, provided that overtime might be worked to meet exceptional cases of pressure of work. However, neither the Draft Convention concerning coal mines nor that for the textile industry define the reasons for which overtime may be permitted.

As the documentary part of this Report shows, the methods adopted by national laws and regulations vary. Sometimes the grounds on which overtime is permitted are specified, and sometimes not. Some schemes make provision for a first allowance of overtime without specifying the grounds for which it may be used, and a further allowance for specified reasons only. The legislation may vary in one and the same country for different branches of activity.

The reasons given to justify overtime also differ. In some cases overtime is allowed for economic reasons, and in others for exceptional, temporary or urgent circumstances. The reasons may differ for the first allowance and for the second, for a given undertaking or for a group of undertakings. Where regulation is by collective agreement, arbitration awards, and similar methods, which play an important part in regulating overtime in many countries, no reason is usually specified.

In view of these considerations, it is doubtful whether any appreciable advantage would be gained by specifying in the international scheme the reasons for which overtime may be worked, as compared with the greater flexibility secured by allowing overtime without specified reasons. The Office therefore proposes

that following the example of the Draft Conventions concerning coal mines and the textile industry, no attempt should be made to specify the reasons for which overtime may be allowed.

§ 3. — Limitation of Overtime

Having specified "exceptional pressure of work" as the ground on which overtime might be allowed, the first two international Conventions concerning hours of work—i.e. the 1919 Convention concerning industry, and that of 1930 concerning commerce and offices—placed no restriction on the amount of overtime permissible, but all the Conventions adopted by the Conference since 1931 have set a limit to overtime. It is true that these latter schemes are restricted to special industries, for which it is obviously easier to set a maximum limit of hours than for a number of occupations with different requirements. But this objection does not invalidate the principle of limiting overtime, since allowance may be made for the various interests involved when fixing the actual amount of overtime permissible. In the absence of any definition of the reasons for which overtime may be granted, it appears essential to limit the amount of overtime if uniformity is to be secured in the application of the proposed international scheme.

As regards the manner in which the amount of overtime may be limited, the problem has two aspects which may usefully be kept apart: (1) whether the limits should be uniform or differential; and (2) what limits should be fixed.

1. UNIFORM OR DIFFERENTIAL LIMITS TO OVERTIME

The comparative study of legislation in the first part of this Report shows that in several countries different overtime allowances are placed at the disposal of the employers. This method allows the amount of overtime granted to be adjusted to the various needs of individual employers, classes of employers, or different branches and occupations, enables successive grants of overtime to be graduated and applications for the use of overtime to be examined at frequent intervals. Nevertheless it hardly seems practicable to base international regulations on this method. Although the Draft Convention concerning coal mines provides for two overtime allowances, this is justified by the different require-

ments of two groups of mines, namely, coal mines and lignite mines. For a scheme with so wide a scope as that contemplated here, however, it would be impossible in practice to make allowance for the manifold interests of the undertakings covered. Distinctions of this kind concern the application of the international scheme which, as stated at the outset, is a matter for the responsible governments. Only in fixing the maximum amount of overtime can account be taken of the different requirements of all the undertakings falling within the scope of the proposed scheme. This point is dealt with further below.

The fact that the possibility of fixing two overtime allowances is contemplated is due to the structure of the proposed international scheme. If, in addition to the strict limitation of the working week, the possibility of averaging weekly hours is also allowed, something must be done to make equal allowance for the interests both of undertakings bound by the rigid scheme and of those which can take advantage of the more flexible arrangement of hours. Whereas in the first case the employee is bound to observe regularly the prescribed weekly limit, in the second he may exceed it at certain periods provided that he works shorter hours at others. Busy and slack periods occur in all undertakings, however, and the employer working under the rigid system of limitation is therefore at a definite disadvantage as compared with the employer who enjoys greater freedom in arranging the hours of his staff. In order to reduce the inequality in competitive conditions to which this state of affairs may give rise, the Office considers it necessary to grant a larger overtime allowance to undertakings bound under their national legislation to observe the strict limits of working hours. This is the method used in the Draft Convention concerning the textile industry adopted in 1937, and it seems suitable for general application in the proposed international scheme.

2. FIXING OF LIMITS TO OVERTIME

As shown in the documentary part of this Report, various methods are used to limit the amount of overtime permissible. These include limitation of the working day or week, limitation of the amount of overtime by the day, week or year, restrictions on the use of overtime, etc.

In considering which of these methods is most suitable for the proposed international scheme, the Office has had to take several points into consideration.

In the first place, many of the national laws that limit overtime fix an annual allowance or lay down limits enabling an annual maximum of overtime to be calculated.

Further, all the international Draft Conventions that limit overtime provide for an annual allowance.

And lastly, regard must be had to the method suggested for the limitation of normal hours of work. On the one hand, no daily limit is set to hours of work, and on the other Governments are left free to calculate weekly hours as an average. It is clearly advisable that limits to overtime should be laid down on the same lines as the limits to normal hours of work. It would thus be difficult to suggest weekly or daily overtime limits, whereas an annual allowance of overtime would constitute a limit both strict enough and flexible enough to allow of the various methods suggested for applying the proposed international scheme.

There remains the problem of the actual limits that should be proposed. National schemes which prescribe an annual allowance of overtime differ widely on this point. Taking into account only those laws which fix an annual limit or allow of the rough calculation of an annual limit, the following may be cited as examples.

In *France* the overtime allowance varies from industry to industry between 30 and 100 hours, but the usual figure is 75 hours. In *Rumania* about 75 hours are also allowed. In *Austria* the allowance for non-seasonal undertakings is 60 hours, but in addition to this the employer is also free to extend hours of work on 3 days a month. In *Poland* the annual maximum is 120 hours and in *Belgium* about 150. In the *Netherlands* overtime may be authorised beforehand for a period of one year in industries which are liable to a rush of work, so that 11 hours a day may be worked for 60 days provided that weekly hours do not exceed 55. In this case, therefore, the annual allowance is about 150 hours. In other industries, however, only a daily limit of 11 hours and a weekly limit of 62 hours are prescribed in case of exceptional pressure of work. In *Switzerland* the Federal Factory Act allows an annual quota of 160 hours, which may, however, be exceeded in case of exceptional pressure of work. In *Estonia* a limit of 175 hours overtime is set, and in *Argentina* and *Venezuela* of 200 hours. In *Yugoslavia* 2 hours' overtime may be worked daily in industry for 4 months, representing an annual allowance of 200 hours, but this grant may be renewed three times. In *Czechoslovakia*, *Greece*, *Hungary*, *Ireland* (except with special permission), and *Spain* 240 hours overtime are allowed in the year, in *Turkey* 270, and in *Finland* and *Sweden* 350. In

Norway the limit is about 390 hours, while in *Mexico* it is about 450. In *Brazil* limits of 10 hours a day and 60 hours a week are set in industry, while in *Italy* not more than 2 hours' overtime a day or 12 hours a week as a rule may be worked, giving in both cases, theoretically, the possibility of an annual maximum of 600 hours.

Finally, in *Bulgaria*, *Chile*, *Germany*, and *Latvia* the law merely prescribes daily limits of 2 hours' overtime. Overtime is not limited by the legislation of *Denmark*, *India*, *Lithuania*, *Luxemburg*, *New Zealand*, *Portugal*, and the *Union of South Africa*, nor as a rule are any limits set by collective agreements, arbitration awards and similar methods of regulation.

Of the draft Conventions for the limitation of hours of work adopted by the Conference in the past, that concerning coal mines provides for an annual overtime allowance of 60 hours, plus another 75 hours for certain lignite mines. The Convention concerning public works allows 100 hours overtime, and that for the textile industry 75 hours, with an extra allowance of 100 hours for undertakings subject to the strict method of limitation to 40 hours per week.

Having regard to the proposed scope of the new international scheme, to the tendencies of national legislation, and to the previous decisions of the Conference, an annual overtime allowance of 100 hours may be suggested for undertakings in which the averaging of hours is permitted, and of 200 hours for those subject to the strict weekly limit, as sufficient to satisfy the needs of all parties.

§ 4. — Procedure

As in the case of other extensions of hours, it would be advisable to leave the regulation of overtime to the competent national authorities. At the same time, the international scheme should contain a provision requiring these authorities to fix by regulations the conditions and limits subject to which employers may make use of the overtime allowance. It is also desirable that the employers' and workers' organisations, where they exist, should be consulted before such regulations are issued.

§ 5. — Remuneration for Overtime

The characteristic of overtime is that it is paid for at a higher rate than the normal. Most national laws require employers to pay

a higher rate for overtime, and the international Conventions concerning hours of work all contain a similar provision. In the case of the proposed international scheme, which, if the Office's suggestions are approved, will not specify the reasons for which overtime may be worked, it is essential that a provision should be included requiring the employer to pay for overtime at an increased rate.

A study of national legislation shows that as a rule it not only lays the principle that overtime shall be remunerated at a higher rate, but also specifies the minimum rate which may not be varied downward by agreement between the parties, whether by collective agreement or by individual contract. Like the previous international Conventions, the new international scheme will also have to fix a minimum overtime rate.

The overtime rates prescribed by national legislation in the various countries differ considerably. The rates prescribed may be flat rates or graduated; they may be fixed at time and a quarter, time and a half, or double time, and even within one and the same country the provisions may differ from one industry to another, and according to agreements between the parties. Generally speaking, however, time and a quarter is the usual minimum rate prescribed for overtime, and this is also the figure adopted in the previous draft Conventions concerning hours of work. It may therefore be suggested that the proposed international scheme for the limitation of hours of work should also fix the minimum rate for the payment of overtime at time and a quarter.

V. — GRADUAL APPLICATION OF THE REGULATIONS

The transition from the present limits of hours of work to those which it is proposed to include in the draft regulations, for instance from 48 to 40 hours a week, may involve considerable difficulties if carried through suddenly and without due notice. These difficulties may be economic in character or may relate to a possible shortage of equipment (where rotation systems are not resorted to) or possible shortage of housing for the newly engaged workers in the case of large industrial undertakings in rural areas. These difficulties would, however, be overcome if adequate notice were given of the change and if the reduction of hours were effected by stages.

This principle is embodied in the Reduction of Hours of Work (Textile Industry) Convention, 1937, which provides that the competent authority may approve a transitional arrangement in virtue of which the reduction of hours of work to the limits referred to in the Draft Convention may be accomplished by stages.

It is therefore suggested that Governments be consulted as to the desirability of recognising in the international regulations the principle of reducing hours of work by stages.

If this principle is approved by the Conference it will be necessary for the international regulations to determine the length of the transitional period. The Textile Convention provides for a 2-year period; however, in view of the diversity of the undertakings covered in the international regulations proposed at present a period of 3 years is suggested. This interval should be amply sufficient to enable the necessary adjustments to be made.

The transition from a 48-hour week to a 40-hour week may, it is suggested, be conveniently effected by the adoption during the transitional period of an intermediate limit of, for example, 44 hours a week and it is proposed to consult Governments on this suggestion.

It is clear, however, that the 44-hour limit cannot be applicable to the persons employed in certain categories of undertakings or occupations for which special normal limits of hours of work in excess of 40 a week may have been provided in the international regulations. It is recalled that the possibility of provisions of this nature is suggested in the case of (a) retail and service trades, (b) hotels, restaurants and similar establishments, (c) curative establishments, (d) theatres and places of public amusement, (e) such other categories of establishments as may be included in the international regulations at the suggestion of Governments. The great diversity of the limits found in national regulations and the fact that in many countries hours of work in such establishments are completely unregulated renders it difficult to suggest in the international regulations the limit which might be proposed for them during the transitional period. It would, however, appear desirable that Governments which have not already done so should, as a first step, subject these categories of undertakings to regulations setting limits to the hours of work of the persons employed therein. With the experience of regulation during the transitional period, these limits could be progressively reduced until they fell within the special limits of normal hours of work proposed for the international regulations. In the case of States which already regulate hours in such cases the competent authority

must be left to make the necessary arrangements for the transition from the limit in force at the time of the adoption of the Convention to those proposed therein. In fixing these limits, it might be suggested that the competent authority consult with the organisations of employers and workers concerned, where such exist.

It is therefore proposed that Governments should be consulted on the principle that the competent authority may, during the transitional period, after consultation with the organisations of employers and workers concerned, where such exist, authorise normal weekly hours of work in excess of 44 in respect of all or any persons employed in any undertaking or branch thereof falling within the categories for which special limits of normal hours of work may have been provided in the international regulations.

It should be clearly understood that all the other provisions of the international regulations, such as those permitting the calculation of hours of work as an average, would be in force during the transitional period and would apply to the limits proposed for that period in the same way as to the normal limits of hours which would ultimately come into force.

VI. — SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

§ 1. — Principle of the Inclusion of Special Provisions for Certain Countries

Article 19, paragraph 3, of the Constitution of the International Labour Organisation states that " in framing any Recommendation or Draft Convention of general application, the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organisation or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries ".

Earlier Conventions often included special provisions for countries which were deemed to be covered by the above clause; for instance, the Hours of Work (Industry) Convention 1919, which introduced the 48-hour week and 8 hour day in industrial undertakings, made special provisions for certain countries. Thus that Conven-

tion provided that it would not be applicable to *China*, *Iran* and *Siam*. Special restrictions were made in the scope of the Convention in its application to *India* and *Japan* and a 60-hour week was permitted in the case of *India* and a 57-hour week in the case of *Japan*, except for persons employed in the raw silk industry, in which case a 60-hour week was authorised. In the application of the Convention to *Greece* and *Rumania*, the date at which the provisions were to be brought into operation was extended to 1 July 1923 and to 1 July 1924 respectively.

Though the question of including special provisions for certain countries arose in the course of the preparation of other Conventions on hours of work, these problems were never examined fully and did not receive the attention which their importance justified. However, during the discussion on the Draft Convention for the Reduction of Hours of Work in the Textile Industry, in 1937, proposals were made regarding the inclusion of such special provisions. Owing to the short time available at the Conference for the consideration of this question and in the absence of clear indications as to the wishes of the Governments concerned, no specific provisions were introduced in the text. The Conference voted instead a resolution requesting the Governing Body of the International Labour Office to give immediate consideration to the question of the adoption of a special Draft Convention determining the modifications of the provisions of the Draft Convention on the Reduction of Hours of Work in the Textile Industry for such countries, with a view to placing this question on the agenda of the Conference.

Though the progress which has taken place in the social legislation and economic development of all countries since 1919 is considerable, it is still true that there are a number of countries in which the special conditions referred to in Article 19 of the Constitution of the International Labour Organisation still obtain.

It is therefore suggested that Governments be consulted on a number of possible provisions special to such countries.

§ 2. — Special Provisions concerning Territorial Scope

In certain countries the conditions referred to above may obtain only in certain areas and not over the whole of the national territory. In such cases the competent authority may be able to meet the special circumstances which exist by applying the special provisions proposed to a part of the national territory only. In

determining the areas to which they should be applied, account must be taken not only of the stage of the development of industrial organisation and the climatic conditions, but also of the organisation of the administrative services required to ensure adequate supervision of the regulations.

It is indeed very difficult to develop inspection services and the related administrative services for the application of regulations covering a very wide scope in areas where distances between centres of population are great, where industrial and commercial establishments are very scattered and where large undertakings are confined to individual industries usually connected with the exploitation of natural resources.

It is for this reason that it is suggested that Governments be consulted on the desirability of including in the international regulations a provision which will enable the competent authority in certain countries to exempt from the application of the international regulations the areas in respect of which, by reason of the sparseness of their population or the stage of their economic development, it is impracticable to create the administrative organisation necessary to secure effective enforcement of the proposed regulations.

§ 3. — Special Provisions concerning the Undertakings covered

In a number of countries the existing administrative machinery for the enforcement of factory legislation, including regulations on hours of work, does not cover small undertakings. In countries in which industrial organisation is still largely on the basis of handicrafts, legislation sometimes covers only industrial undertakings in which motive power is used and which employ more than a given number of persons. The task of creating inspection services capable of enforcing legislation in the smaller establishments including handicraft workshops has appeared to present almost insuperable difficulties in such countries. The Hours of Work (Industry) Convention 1919 recognised this difficulty when in the case of *Japan* it provided for a restrictive definition of "industrial undertaking" which excluded factories in which less than 10 workers were employed and excluded undertakings engaged in construction work in so far as they were not defined as factories by the competent authority. In *India*, hours of work provisions were to apply only to the workers in the industries at that time

covered by the Factory Act administered by the Government of *India*, in mines and in such branches of railway work as were to be specified for this purpose by competent authority. Similarly, in *Greece*, special indications were given as to the industrial undertakings to which the international Convention was to apply.

The detailed provisions regarding exemptions from the scope of national regulations will be found in an earlier chapter.

It would appear necessary to take the existing situation and the difficulty of enforcement in certain countries into account, and to permit certain countries to exempt undertakings employing a number of workers not exceeding a figure to be determined in the international regulations. It is suggested that this figure might be set at 20. In so far as factories using motive power are concerned, this figure would permit the existing exemptions in the legislation of the different countries to continue in force, except in the case of *China* which excludes establishments employing less than 30 persons. It must, however, be remembered that in certain of the countries which may avail themselves of these special provisions, a number of economic activities in which a considerable number of persons may be employed, such as public works and building and certain commercial activities, are not covered by legislation and that where no motive power is used, other industrial undertakings employing a larger number of persons may also be exempt from regulations.

On the other hand, in accordance with the general principle that the adoption of international regulations should not lead any Member to lessen the protection afforded by its existing legislation to the workers concerned, it would appear desirable to specify that if any lower figure exists in the national regulations in force at the time of the adoption of the international regulations, this figure should not be increased.

The competent authority, when availing itself of the possibility granted in the international regulations of exempting undertakings employing 20 persons or less from the application of these regulations, need not necessarily avail itself of this possibility in respect of the whole of the national territory. Provisions are frequently found in national legislation, and are analysed in an earlier chapter, applying regulations only in certain parts of a country. For instance, a number of regulations concerning shops apply only in towns with a population in excess of five or ten thousand inhabitants, as the case may be. In certain countries where hours are regulated largely by collective agreements, these may be found to

apply mainly in industrial regions, leaving hours unregulated in the more sparsely populated parts of the country.

It is therefore suggested that Governments should be consulted on the desirability of including in the international regulations a provision enabling the competent authority in certain countries to exempt from the application of the international regulations, in respect either of the whole or of specified parts of their territory, undertakings employing a number of workers not exceeding the figure of 20 or such lower figure as may be specified in the relevant national regulations in force at the time of the adoption of the international regulations.

§ 4. — Special Provisions concerning the Limits of Hours of Work

It has already been pointed out that the Hours of Work (Industry) Convention, 1919, provides for the limitation of hours in excess of the normal figure laid down in the Convention for certain countries, namely, *India* and *Japan*. Owing to the stage of the development of industrial organisation and the climatic conditions of certain countries, it would appear necessary to provide for the possibility of longer hours in countries in which the circumstances are those described in Article 19, paragraph 3, of the Constitution. For instance, in those countries which have not found it possible to reduce hours of work in industry to 48 during the period between 1919 and the present time, it would be unreasonable to expect that the introduction of a 40-hour week would be immediately practicable.

It is therefore suggested that longer limits of normal hours of work might be authorised for these countries, not to exceed 48 hours a week. This limit could be applied also to persons engaged in necessarily continuous processes, if the system involving the introduction of a relief shift were followed.

The provisions concerning the method of calculation of the weekly hours of work, the making up of lost time and the extensions of hours would apply to the higher figure in the same way as it is suggested they should apply to the figure of 40 hours a week. Such longer limits of hours of work need not necessarily be applied by the competent authority in the countries concerned to all the categories of establishments indiscriminately. It might be found that this longer limit need be applied only to certain categories of establishments.

It is therefore suggested that the Governments should be consulted on the desirability of including in the international regulations a provision permitting in the case of the countries considered above, or for certain classes of undertakings within these countries, the fixing of a general limit of normal hours of work at a figure not exceeding, for example, 48 hours a week.

It has been suggested above that in the case of undertakings in which the nature of the work of a considerable proportion of persons employed is such that it comprises periods of activity interrupted by substantial periods of inactivity or mere presence, the competent authority may fix limits of hours in excess of 40. It would be difficult in countries for which a special regime not exceeding 48 hours applies to apply this same limit to these special categories of establishments or occupations. At the same time, owing to the fact that these categories of establishments, consisting mainly of retail and service trades, hotels, restaurants and similar establishments, curative establishments, theatres and place of public amusement, are often not regulated at all in the countries to which Article 19, paragraph 3, of the Constitution refers, it would appear difficult for the international regulations to determine the limits of normal hours of work which should apply in such cases.

It is suggested that a first step should be taken in the countries concerned by bringing these categories of establishments into a scheme of regulation without, however, specifying in the international regulations the limits which apply. This would mean that where no regulations at present exist, the competent authority in these countries should determine the limits of normal hours of work for all these branches of activity, in accordance with the local conditions. In doing so, it would appear to be desirable for it to consult with the organisations of employers and workers concerned, where such exist.

It may be pointed out that the provisions tending to the possible exclusion from the scope of the regulations of undertakings employing less than a certain number of persons also apply to these special categories. It therefore follows that the obligation which it is suggested these Members should assume in connection with the regulation of the hours of work in retail and service trades, in hotels, theatres, hospitals, etc., might be confined to those undertakings which employ a number of persons in excess of such figure as may be specified in the international regulations or in their existing legislation.

It is therefore suggested that Governments be consulted as to

the desirability of including in the international regulations a provision that the competent authority in certain countries may, after consultation with the organisations of employers and workers concerned where such exist, authorise special limits of normal weekly hours of work corresponding to those discussed above for certain categories of undertakings or of occupations.

VII. — SPECIAL PROVISIONS FOR UNDERGROUND MINES OTHER THAN COAL MINES

§ 1. — Time spent in the Mine

Among the mines other than coal mines such as metalliferous, potash, and salt mines, which might be covered by international regulations, there are a large number which are underground, and in which the conditions of work of the workers are analogous with those of underground workers in coal mines. The regulation of hours of work of underground workers in these two kinds of mines raises the same problems, and examination of national laws makes clear that the solutions reached are generally either very similar or often identical.

In the third Part of this Report the provisions in international regulations to be applied to coal mines are examined in detail; in this Part only those provisions are dealt with which might constitute a special section in the general regulations covering mines other than coal mines.

The calculation of hours of work might be based, as in the case of coal mines, on the concept of the time spent by the workers in the mine.

If the proposed regulations are to limit the time spent by underground workers in the mine it appears possible to take over for this purpose the definition which has been laid down in the special international Conventions applied to coal mines (the Hours of Work (Coal Mines) Convention, 1931. and the Hours of Work (Coal Mines) Convention (Revised) 1935), and which has also been included in the list of points submitted to the Twenty-fourth Session of the Conference, with a view to the adoption of a new special Convention for these mines. This definition makes a distinction between mines which are entered by means of a shaft and those which are entered

by adit. In both cases the time spent in the mine comprises the period between the time when the worker leaves the surface or enters the adit in order to begin work, and the time when the worker regains the surface or leaves the adit at the close of work.

Furthermore, as, in practice, in some cases the descent into the mine and the ascent to the surface are carried on collectively for all the workers of a shift or of a group, and in other cases several trips of the cage are necessary to accomplish the descent and the ascent of the whole of the workers of a shift, the afore-mentioned international Conventions lay down a procedure which makes it possible to make the time spent in the mine of groups of workers, when calculated collectively, equivalent to that of the individual calculation. If the definition of time spent in the mine is retained for mines other than coal mines, the clause equalising the collective calculation carried out under certain conditions with that of the individual calculation should automatically be retained.

Governments might be consulted as to whether they would be favourable to the inclusion in international regulations for underground workers in mines other than coal mines of the definitions of time spent in the mine contained in the two Conventions limiting hours of work in coal mines.

§ 2. — Limitation of Daily Time spent in the Mine

The figure suggested of 7 hours and 45 minutes for the daily time spent in the mine is that prescribed by the two Conventions covering coal mines. Since the conditions of work are very similar in coal mines and other underground mines, it appears that the daily time spent in the mine should be the same for both.

§ 3. — Limitation of Weekly Time spent in the Mine

The list of points submitted to the Twenty-fourth Session of the Conference with a view to the adoption of special regulations for hours of work in coal mines suggests that the weekly time spent in the mine should be 38 hours and 45 minutes. This figure is the one which has already been suggested in the proposed Draft Convention examined at previous sessions of the Conference. As in regard to the daily time spent in the mine, because of the similarity of the conditions of work, the weekly time should be identical in the various

underground mines. In this respect it should be noted that frequently national regulations establish a system common to both coal mines and other mines.

The list of points concerning coal mines provides for the possibility of introducing a transitional regime for these mines. The competent authority might be permitted to authorise, during a period to be fixed, the determination for underground workers of time spent in the mine on the basis of 11 shifts of 7 hours and 45 minutes per fortnight (6 shifts in the course of one week and 5 shifts in the course of the following week).

Governments might be consulted as to the advisability of providing for the inclusion in the international regulations concerning mines other than coal mines of transitional provisions similar to those which might be stipulated in the special regulations applicable to coal mines.

§ 4. — Length of the Shift for Workers occupied on Necessarily Continuous Processes

The provisions suggested for the proposed Convention on coal mines might be maintained with regard to the length of the shift of those workers, few in number, carrying on necessarily continuous work underground.

In view of the continuous presence of these workers during the whole length of the shift at the machinery under supervision (ventilation and pumping stations, etc.), which is required in order to avoid a break in the continuity of the supervision, it is necessary to add to the period of 8 hours spent at these machines, the time spent in going to and from the place of work, it being understood that in each case this time will be reduced to the indispensable minimum. The inclusion of a provision of this nature seemed necessary in the revised 1935 Convention on coal mines.

§ 5. — Overtime

The similarity of the conditions of work in coal mines and other underground mines raises the question as to whether the same system of overtime should be applied to mines covered by the two proposed regulations. It should be noted that certain underground mines may require a larger amount of overtime than is necessary

for coal mines. It was for this reason that the Convention of 1931 limiting hours of work in coal mines, and the revised Convention in 1935, which authorised 60 hours of overtime for coal mines, permitted an increase for lignite mines of the number of hours of overtime from 60 to 75 and further permitted the competent authority to approve collective agreements providing a maximum of 75 extra hours of overtime per year. Nevertheless the latter overtime can only be authorised for districts or for mines where the special technical or geological conditions warrant it. Under these conditions it appears that underground mines other than coal mines might benefit by a more liberal system of overtime than that provided for coal mines. It is possible that the number of hours of overtime with increased pay provided in the general regulations would be suitable to these mines. /

Governments might be consulted as to whether they would be favourable to limiting the number of hours of overtime which might be permitted in mines other than coal mines under the same conditions as for coal mines, other than lignite mines, or if they would prefer that mines other than coal mines should come under the provisions of the general regulations.

VIII. — SUSPENSION OF THE APPLICATION OF THE REGULATIONS

A considerable number of national regulations do not merely authorise the extensions that have just been examined; they further authorise under certain circumstances the suspension of the whole of the hours of work regime. However, the suspension is possible only when deemed indispensable in the interest of the State as a whole.

As a result of the desire of certain States to reserve their right to adapt hours of work to entirely exceptional circumstances or to the requirements of public interest, it appears advisable for the international regulations to provide for the same possibility and to indicate the circumstances in which it would be possible to have recourse to suspension. Governments making use of this provision should immediately inform the International Labour Office. In this regard it should be noted that in order to take into consideration recent laws, it is necessary to enlarge the possi-

bilities of suspension provided up to the present in international Conventions on hours of work.

The reason most frequently found for suspension of the regulations, and which seems the most important, is the necessity of meeting the requirements of national safety. This was already provided for in 1919 in the Convention limiting hours to 48 per week for industry by a clause permitting the provisions of the Convention to be suspended in any country by the Government in the event of war or other emergency endangering the national safety.

The suspension of the regulations with a view to ensuring the working of a service of public utility may be warranted, when the national safety is not in danger, by entirely unforeseen circumstances such as a calamity falling upon a region or a catastrophe whose repercussions threaten to become serious for vast territories. It should be noted that the *French* law authorises a temporary extension of hours of work by order of the Government for carrying out work which it considers necessary in the interests of safety and of national defence, or for the service of a public utility. In each case the limit of the extension shall be fixed in agreement with the Minister of Labour and the Minister who orders the work. Various laws similarly authorise extensions of hours of work when required by national or public interests.

Finally the necessity of protecting the national economic system is invoked by some regulations as a reason for temporary suspension of the hours of work legislation. Thus the *Belgian* law of 14 June 1921 on the 48-hour week permits the King to suspend the operation of the limitations laid down when, in the opinion of the Superior Labour Council and the Superior Council of Industry and Commerce it is a national necessity that the means of exchange indispensable for the importation of the requisites of existence be ensured by the development of export trade. It should, however, be noted that up to the present time the Belgian Government has not made use of this facility. The Conference of Ministers of Labour held in London in 1926, referred to above, interpreted the phrase "emergency endangering the national safety", which constitutes one of the reasons for the suspension of the international Convention limiting hours of work in industry, to mean that use could only be made of this provision in case of a crisis affecting the national economy to such a degree that it threatened the very life of the nation. The London Conference added that the suspension of the Convention would not be warranted if it was

a question of an economic or commercial crisis affecting only special branches of industry.

It appears desirable that Governments should be consulted on the possibility of including in the international regulations a provision permitting the suspension of their application in case of necessity for meeting the requirements of national safety or for ensuring the working of a service of public utility or for the protection of the national economic system. In any such case Governments might be asked to notify the International Labour Office immediately of the suspension of the application of the regulations.

IX. — SAFEGUARDING CLAUSE

The Constitution of the International Labour Organisation in Article 19, paragraph 11, lays down the principle that in no case shall any Member be asked or required, as a result of the adoption of any Recommendation or Draft Convention by the Conference, to lessen the protection afforded by its existing legislation to the workers concerned.

At recent sessions of the Conference, proposals have been submitted to include this principle in the texts of international regulations as a specific provision. In the Reduction of Hours of Work (Textile Industry) Convention, 1937, the following article was inserted:

“ In accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions to the workers than those provided for by this Convention.”

It is suggested that Governments be consulted as to the inclusion of an identical clause in the proposed international regulations.

X. — SUPERVISION OF THE APPLICATION

Just as national regulations on hours of work contain provisions for the purpose of ensuring their application, in the same way it would be useful to include in the draft for an international Con-

vention certain rules concerning the supervision of its application. These rules are necessary in order to ensure as uniform an application as possible of the international regulations and, although constituting a minimum of supervision, make possible a control of the extent to which the national regulations in the different countries are effectively applied in the undertakings and occupations covered.

Among the measures of supervision prescribed in the majority of national regulations, mention should be made in the first place of the obligation upon the employer to draw up a time-table and to post it in a conspicuous place in the undertaking. The time-table should indicate the regular hours of work of the persons employed in the undertaking and, where work is carried on in shifts, or, where a rotation system is applied, the hours of work of each shift or of the persons employed on the basis of the rotation system, as well as the rest periods which are not reckoned as part of the working hours. This information is indispensable in order to enable the competent authority to ensure that the conditions of employment of the staff are in accordance with the regulations.

Furthermore, a large number of national regulations require the employer to keep a special record of additional hours worked by his employees and of the payments made in respect thereof. It is also essential for the competent authority to have this information in order to supervise the application of the exceptions authorised in the various undertakings.

These are the measures for supervision most frequently found in national regulations; they correspond to the principles laid down in international Conventions on hours of work adopted by the Conference since 1919. Thus the Hours of Work (Industry) Convention, 1919, stipulates that each employer must notify by means of the posting of notices or in any other manner that may be approved by the Government the hours at which work begins and ends, and where work is carried on by shifts, the hours at which each shift begins and ends, and such intervals accorded during the period of work as are not reckoned as part of the working hours. The Convention further provides that each employer shall keep a record of all additional hours worked in pursuance of the extensions authorised by the Convention. Similar provisions are found in the Hours of Work (Commerce and Offices) Convention, 1930, the Hours of Work (Coal Mines) Convention, 1931, (Revised) 1935, and in the Sheet Glass Works Convention, 1934. The draft Convention of 1936 on hours of work in public works and that of 1937 on hours of work in the textile industry extended the prin-

ciple of the posting of the time-table by prescribing that each employer must, if he applies the rotation system, also post notices giving a description of the system, including the time-table for each person or group of persons, and indicating the arrangements made in cases where the weekly hours of work are calculated over a number of weeks.

The provisions provided in the latter two Draft Conventions form the basis for the measures which it seems desirable to include in the proposed international regulations. These contain in addition a stipulation requiring the employer to bring to the notice of his staff arrangements made in cases where lost time is made up.

Governments might be consulted as to whether they would be favourable to the inclusion in international regulations of the obligation upon the employer to notify by means of the posting of notices or otherwise information concerning the hours at which work begins and ends, the rotation system, the calculation of hours of work as an average, the making up of time lost and rest periods. In regard to the extensions of hours of work provided in points 26 to 33 Governments might be consulted as to the keeping of a record by the employer in which would be inscribed all additional hours worked and the payments made in respect thereof.

XI. — ANNUAL REPORTS

It would be well to include in the international regulations reference to certain information which is particularly important in regard to the application of their provisions, that Governments might be asked to furnish in the annual reports submitted in virtue of Article 22 of the Constitution of the International Labour Organisation, although the determination of the form of these annual reports is a matter for the Governing Body. This information bears upon the following points: exemptions provided in the scope of the international regulations; regulations covering the cases in which hours of work are calculated over a period exceeding one week; determination of necessarily continuous work for which a 42-hour week is authorised; determinations by the competent authority concerning the special limits of normal hours of work and the conditions under which hours of work may be made up; regulations covering the extension of hours of work and over-

time and recourse to the special provisions concerning certain areas or countries.

Similar measures appear in particular in the Draft Conventions on the reduction of hours of work in public works and in textiles. The inclusion of these points on which Governments might be consulted would not therefore constitute an innovation in international regulations.

CONSULTATION OF GOVERNMENTS

The foregoing analysis of the problems which might be dealt with by international regulations permits of fixing as completely as possible the points on which Governments might be consulted in conformity with the provisions of Article 6 of the Standing Orders of the Conference.

Taking into account the conclusions reached above and the methods of solution on which international agreement may be possible, the Office has drawn up a list of the points on which it considers that the Conference might request it to consult Governments.

I. — FORM OF THE REGULATIONS

1. (a) A single Draft Convention, applying to industry, commerce and offices; or
- (b) Two Draft Conventions, applying respectively to:
 - (i) industry, and
 - (ii) commerce and offices.

II. — SCOPE

§ 1. — METHOD OF DETERMINATION OF SCOPE

2. Determination of scope by one of the two following methods:
 - (a) general formula covering manual and non-manual workers, including apprentices, irrespective of the undertakings in which they are employed; or
 - (b) enumeration of the categories of undertakings in which are employed the manual and non-manual workers, including apprentices, to be covered.

§ 2. — SCOPE AS REGARDS UNDERTAKINGS

3. Application of the international regulations to the following categories of industrial undertakings:

- (a) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed—including undertakings engaged in the generation, transformation or transmission of electricity or motive power of any kind;
- (b) undertakings engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of buildings, railways, tramways, airports, harbours, docks, piers, works of protection against floods or coast érosion, canals, works for the purpose of inland, maritime or aerial navigation, roads, tunnels, bridges, viaducts, sewers, drains, wells, irrigation or drainage works, telecommunication installations, works for the production or distribution of electricity or gas, pipe lines, waterworks, or in undertakings engaged in other similar work or in the preparation for or laying the foundation of, any such work or structure;
- (c) mines, quarries, and other works for the extraction of minerals from the earth, excluding mines from which coal, including lignite, is the only or principal mineral extracted ¹;
- (d) undertakings engaged in the transport of passengers or goods by road or rail including the handling of goods at docks, quays, wharves, warehouses or airports ²;
- (e) other categories of undertakings which might be covered.

4. Application of the international regulations to the following categories of commercial establishments and offices:

- (a) commercial or trading establishments, including postal, telegraph and telephone services and commercial or trading branches of any other establishments;

¹ The present point does not cover workers occupied in coal mines; their conditions of work are examined in another part of this Report and form the subject of a special list of points.

² The present point does not cover transport by rail open to public traffic; such transport, for which a special list of points has been drawn up, is dealt with in the second part of this Report. The present point also does not cover professional drivers (and their assistants) of vehicles engaged in road transport; the conditions of these persons form the subject of a separate report and list of points (Report IV).

- (b) establishments and administrative services in which the persons employed are mainly engaged in office work;
- (c) mixed commercial and industrial establishments, unless they are deemed to be industrial undertakings;
- (d) establishments for the treatment or the care of the sick, infirm, destitute or mentally unfit;
- (e) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses;
- (f) theatres and places of public amusement;
- (g) other categories of establishments which might be covered.

5. Possibility of excluding by national regulations the following categories of undertakings:

- (a) undertakings where only members of the employer's family are employed;
- (b) small undertakings ordinarily employing not more than six persons;
- (c) offices in which the staff is engaged in connection with the administration of public authority.

§ 3. — SCOPE AS REGARDS PERSONS

6. Application of the international regulations to all manual and non-manual workers, including apprentices, employed in the undertakings covered.

7. Possibility of excluding by national regulations the following categories of persons:

(a) persons occupied:

- (i) in a position of management,
- (ii) in a confidential capacity;

or

classes of persons who by reason of their special responsibilities are not subjected to the normal rules governing the length of the working time.

(b) travellers and representatives, in so far as they carry on their work outside the undertaking.

III. — LIMITATION OF NORMAL HOURS OF WORK

§ 1. — DEFINITION OF HOURS OF WORK

8. (a) Principle of the inclusion in the international regulations of a definition of hours of work.

(b) Adoption of the following definition:

“The term ‘hours of work’ means the time during which the person employed is at the disposal of the employer and is not free to dispose of his own time and movements.”

§ 2. — GENERAL LIMITATION OF NORMAL HOURS OF WORK FOR NOT NECESSARILY CONTINUOUS PROCESSES

9. Limitation of normal weekly hours of work to 40.

10. (a) Possibility for the competent authority to permit by regulation the calculation of the normal limit of hours of work as an average over a period exceeding one week.

(b) Obligation on the competent authority in cases in which hours of work are calculated as an average to:

- (i) consult the organisations of employers and workers concerned, where such exist;
- (ii) determine by regulation the period over which the limit of hours may be calculated.

§ 3. — LIMITATION OF NORMAL HOURS OF WORK FOR NECESSARILY CONTINUOUS PROCESSES

11. (a) Limitation of normal hours of work to a weekly average of 42 hours, calculated over a period to be determined by the competent authority, for necessarily continuous processes; namely, processes required by reason of the nature of the process to be carried on by a succession of shifts without a break at any time of the day, night or week.

(b) Obligation on the competent authority in cases in which a 42-hour average weekly limit is applied to determine by regulation, after con-

sultation with the organisations of employers and workers concerned, where such exist:

- (i) the processes in respect of which this limit shall apply;
- (ii) the period over which the limit of hours may be calculated.

§.4. — SPECIAL LIMITATION OF NORMAL HOURS OF WORK FOR CERTAIN CATEGORIES OF UNDERTAKINGS OR OCCUPATIONS

12. (a) Principle that the competent authority may authorise normal weekly hours of work in excess of 40 in respect of any undertaking or branch thereof, falling within the categories mentioned below, in the cases in which the nature of the work of a considerable proportion of the persons employed is such that it comprises periods of activity interrupted by substantial periods of inactivity or mere presence;

(b) Principle that the competent authority determine the categories of persons employed in any such undertaking or branch thereof in respect of whom the longer limit may, owing to the nature of their work, apply.

Retail and Service Trades

13. Possibility of providing in the international regulations that a normal weekly limit of hours not exceeding 44 may be applied by the competent authority to all or certain persons employed in establishments in the retail and service trades.

14. Possibility of providing in the international regulations that, notwithstanding the above, a normal weekly limit of hours not exceeding 48 may be applied by the competent authority to all or certain persons employed in establishments in the retail and service trades which, owing to their nature, are customarily required by the public to remain open during prolonged periods of the day or week or at unforeseen times.

Hotels, Restaurants and Similar Establishments

15. Possibility of providing in the international regulations that a normal weekly limit of hours not exceeding 52 may be applied by the competent authority to all or certain persons employed in hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses.

Curative Establishments

16. Possibility of providing in the international regulations that a normal weekly limit of hours not exceeding 48 may be applied by the

competent authority to all or certain persons employed in establishments for the treatment or care of the sick, infirm, destitute or mentally unfit.

Theatres and Places of Amusement

17. Possibility of providing in the international regulations that a normal weekly limit of hours not exceeding 48 may be applied by the competent authority to all or certain persons employed in theatres and places of public amusement.

Other Undertakings

18. (a) Indication of any other categories of undertakings or occupations for which the international regulations may prescribe that a normal weekly limit of hours in excess of 40 hours may be applied by the competent authority.

(b) Indication of such limits.

19. Possibility for the competent authority to permit the calculation of the special limits of normal hours of work, provided for the above categories of undertakings or occupations as an average over a period to be determined by such competent authority.

20. Obligation on the competent authority to consult the organisations of employers and workers concerned, where such exist, before authorising the use of the provisions found in Points 13 to 19.

§ 5. — MAKING UP LOST TIME

21. Possibility of making up time lost through collective stoppages of work resulting from:

- (a) accidental causes or cases of *force majeure*;
- (b) weather conditions;
- (c) public holidays falling on a working day.

22. Obligation on the competent authority to determine after consultation with the organisations of employers and workers concerned, where such exist:

- (a) the conditions under which lost time may be made up;
- (b) the period within which lost time may be made up; and
- (c) the maximum extension of weekly hours permitted.

IV. — EXTENSIONS OF HOURS OF WORK

§ 1. — EXTENSIONS FOR CERTAIN CATEGORIES OF WORK OR OF OCCUPATION

23. Possibility for the competent authority to permit extensions of the normal hours of work in the case of persons engaged in:

- (a) preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking, branch or shift;
- (b) essentially intermittent work such as that of caretakers, night watchmen, doorkeepers, fire services and other staff, which by its nature consists of long periods of inaction during which the persons concerned have to display neither physical activity nor sustained attention, or remain at their posts only to reply to possible calls;
- (c) work which, for technical reasons, cannot be interrupted at will or which must be completed in order to prevent the deterioration of raw materials or manufactured goods;
- (d) work required to co-ordinate the work of two succeeding shifts;
- (e) work necessary for stocktaking and the preparation of balance-sheets, settlement days, liquidations and the balancing and closing of accounts;
- (f) other extensions.

24. Determination of the conditions and limits under which the extensions may be granted by regulations issued by the competent authority after consultation with the organisations of employers and workers concerned, where such exist.

§ 2. — EXTENSIONS FOR ACCIDENTAL CIRCUMSTANCES

25. Possibility of exceeding the normal hours of work:

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*, but only in so far as may be necessary to avoid serious interference with the ordinary working of the undertaking;

- (b) in order to make good the unforeseen absence of one or more members of a shift.

§ 3. — EXTENSIONS FOR LACK OF SKILLED WORKERS

26. Possibility for the competent authority to permit extensions of the normal hours of work in case of proven lack of skilled workers.

27. Determination of the limits and conditions under which the extensions may be permitted by regulations issued by the competent authority after consultation with the organisations of employers and workers concerned, where such exist.

§ 4. — EXTENSIONS FOR CATEGORIES OF UNDERTAKINGS WHOSE ACTIVITY IS SUBJECT TO SEASONAL FLUCTUATIONS

28. Possibility for the competent authority to permit extensions for categories of undertakings whose activity is subject to seasonal fluctuations.

29. Determination by the competent authority by regulations issued after consultation with the organisations of employers and workers concerned, where such exist:

- (a) of the categories of undertakings considered to be undertakings whose activity is subject to seasonal fluctuations;
- (b) the conditions and limits under which the extensions may be granted.

§ 5. — OVERTIME WITH INCREASED REMUNERATION

30. Possibility of working overtime with increased remuneration.

31. Limitation by the international regulations of the annual maximum amount of overtime:

- (a) when the hours of work are fixed by national regulations as an average calculated over a period longer than a week: 100 hours, for example;
- (b) when the hours of work are fixed by national regulations on the basis of a period not exceeding one week: 200 hours, for example.

32. Determination of the amount of overtime by the competent authority by regulations issued after consultation with the organisations of employers and workers concerned, where such exist.

33. Determination by international regulations of the minimum rate of increase of pay for overtime: time and a quarter for example.

V — GRADUAL APPLICATION OF THE REGULATIONS

34. Principle of reducing hours of work by stages.

35. Determination of the maximum length of the transitional period (three years, for example).

36. Determination of the general limit of normal hours of work during the transitional period at, for example, 44 hours per week.

37. Possibility for the competent authority to authorise during the transitional period after consultation with the organisations of employers and workers concerned, where such exist, special limits of normal weekly hours of work in excess of those indicated in points 13 to 18.

VI. — SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

38. Possibility of exempting from the application of the international regulations, in the case of certain countries, the areas in respect of which, by reason of the sparseness of their population or the stage of their economic development, it is impracticable to create the administrative organisation necessary to secure effective enforcement of the proposed regulations.

39. Possibility for certain countries of exempting from the international regulations in respect either of the whole or of specified parts of their territory, undertakings employing a number of workers not exceeding the figure of twenty, or such lower figure as may be specified in the relevant national regulations in force at the time of the adoption of the international regulations.

40. Possibility for the international regulations to authorise limits of normal hours of work in excess of those laid down in the international

regulations (Points 9 to 20) in the case of the countries contemplated in points 38 and 39 or of certain classes of undertakings within these countries:

- (a) determination of the general limits of normal hours of work corresponding to those indicated in Points 9 and 11, at, for example, 48 per week;
- (b) provision that the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise special limits of normal weekly hours of work corresponding to those indicated in Points 13 to 18.

VII. — SPECIAL PROVISIONS FOR UNDERGROUND MINES OTHER THAN COAL MINES

41. Principle of the inclusion in international regulations of a definition of hours of work for workers employed underground in mines other than coal mines, based on the following definition of time spent in the mine:

- (a) time spent in an underground mine for each worker employed in underground mines other than coal mines shall mean the period between the time when the worker enters the cage in order to descend and the time when he leaves the cage after reascending;
- (b) in mines where access is by an adit, the time spent in the mine shall mean the period between the time when the worker passes through the entrance of the adit and the time of his return to the surface.

The above provision shall be deemed to be complied with if the period between the time when the first workers of the shift or of any group leave the surface and the time when they return to the surface is the same as the time spent in the mine by each worker. The order of and the time required for the descent and ascent of a shift or of any group of workers shall, moreover, be approximately the same.

42. Limitation of daily time spent in the mine for any worker:

- (a) to 7 hours and 45 minutes per day, or
- (b) to another period.

43. Limitation of weekly time spent in the mine for any worker:

- (a) to 38 hours 45 minutes per week, or
- (b) to 38 hours and 45 minutes for each week with the possibility for the international regulation to introduce a transitional regime of a period to be determined, giving to the competent authority the possibility of fixing the time spent in the mine over a period of two weeks at eleven shifts of 7 hours and 45 minutes each for underground workers (six shifts in one week and five shifts in the next);
- (c) to another period.

44. Possibility of extending the length of the shift of each worker employed on operations which must be carried on continuously to 8 hours per day, exclusive of the time spent in the mine by that worker in reaching and returning from his place of work, it being understood that in each case this time will be reduced to the indispensable minimum.

45. Limitation of the number of hours of overtime which may be worked in mines other than coal mines:

- (a) under the same conditions as for coal mines (other than lignite mines);
- (b) without distinguishing mines other than coal mines from other undertakings covered by the general regulations.

VIII. — SUSPENSION OF THE APPLICATION OF THE REGULATIONS

46. Principle of suspension:

- (a) in case of necessity for meeting the requirements of national safety;
- (b) in case of necessity for ensuring the working of a service of public utility;
- (c) in case of necessity for protecting the national economic system.

47. Obligation to notify the International Labour Office immediately of the suspension of the regulations with an indication of the reasons which have led to it.

IX. — SAFEGUARDING CLAUSE

48. Inclusion in the regulations of a safeguarding clause providing that, in accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in the international regulations shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions to the workers than those provided for in such regulations.

X. — SUPERVISION OF THE APPLICATION

49. Notification by the employer, in a manner approved by the competent authority, by the posting of notices or otherwise:

- (a) the hours at which work begins and ends;
- (b) where work is carried on by shifts, the hours at which each shift begins and ends;
- (c) where a rotation system is applied, a description of the system, including a time-table for each person or group of persons;
- (d) the arrangements made in cases where the average duration of the working week is calculated over a period exceeding one week;
- (e) the arrangements made in cases where lost time is made up; and
- (f) rest periods which are not reckoned as part of the working hours.

50. The keeping by the employer of a record, in the form prescribed by the competent authority, in which shall be included all additional hours worked (Points 26 to 33) and of the payments made in respect thereof.

XI. — ANNUAL REPORTS

51. Indication in the annual reports presented in execution of Article 22 of the Constitution of the International Labour Organisation of the measures taken for the control of the application of the international regulations, in particular:

- (a) exemptions provided in the scope of the regulation and the conditions under which these exemptions are granted;

- (b) regulations covering the cases in which average hours of work are calculated over a period exceeding one week;
 - (c) the determination of necessarily continuous work for which a 42-hour week is authorised;
 - (d) the determinations by the competent authority concerning the special limits to normal hours of work (Points 13 to 19);
 - (e) measures taken by the competent authority concerning the conditions under which the making up of lost time is permitted;
 - (f) regulations covering the extension of hours of work (Points 23 to 29);
 - (g) regulations covering overtime (Points 30 to 33);
 - (h) any recourse to the special provisions authorising the gradual application of the international regulations; and
 - (i) any recourse to the special provisions for certain areas or countries.
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2. SMALL UNDERTAKINGS AS REGARDS MECHANICAL POWER

In the following cases, exclusion is permitted where no mechanical power is used:

The *Chinese* Factories Act excludes factories not using mechanical power. In *India* factories not using mechanical power are likewise excluded, but authority is given to the local governments to include them.

Under the *Japanese* Factories Act (covering women and children) establishments where one or more machines are used are included. The Factories Act of the *Australian* State of Tasmania does not cover establishments where less than one horse-power of mechanical force is used. The *Luxemburg* Order provides that "any equipment with mechanical power of more than one horse-power shall be deemed to be industrial equipment". In *Norway* hours provisions do not apply in establishments where less than one horse-power of mechanical force is used.

§ 3. — Exclusion of Enterprises in Rural Regions

Exclusion of enterprises in rural areas from hours of work regulations is sometimes made because of the difficulties inherent both in supervision and in limiting hours of work in undertakings whose function it is to satisfy the irregular needs of rural populations.

The experience of *Belgium*, illustrating a trend away from exemption of rural enterprises from hours regulations, should be mentioned here. A Royal Order, issued in 1923, exempted certain employees in hotels, restaurants and similar establishments situated in places having a population of 5,000 or less from the provisions of the 48-hour law. However, by another Order issued on 15 June 1937, this exemption was repealed.

Among the countries which permit the exemption of undertakings in rural areas from hours of work regulations, distinction may be made between (1) those in which definition of "rural region" is contained in the legislation, and (2) those in which the concept of rural undertaking is not defined.

1. LEGISLATION IN WHICH RURAL UNDERTAKINGS ARE DEFINED

When the concept of "rural area" is defined in national legislation, such definition may be based on various criteria. It may depend on the population of the place in which the undertaking is situated; its distance from some set point (for example, the railroad station); or on its being outside, or a certain distance away from, city or town limits.

The hours law of *Bulgaria* does not apply in villages or in towns with a population of less than 10,000. It also excludes the premises of railroad stations situated one kilometre or more from town limits. However, it is provided that the local police may extend the provisions of the Act to all or some of the commercial activities to which exemption is permitted by the Act.

Under the Minimum Wage Act of Saskatchewan (*Canada*) only enterprises in cities and within a 5-mile radius of cities are covered.

In *Estonia*, by the law of 1931, small enterprises and co-operative farms situated outside city or town limits are excluded. However, construction work on such enterprises when it is done by an industrial concern is covered by the law.

The Hours of Work (Commerce) Decree of *Greece* applies as regards its hours provisions only in towns having a population of 10,000 or more for the following undertakings: barbers' shops, grocers' and provision shops, shops dealing in colonial produce, and wholesale establishments (on the coast). The Act also provides that the hours provisions applicable to towns of 10,000 or more may be extended by order of the Minister of National Economy, at the request of the employees and employers concerned, to towns of 5,000 or more population.

The *Italian* Decree of 1923 excludes shop assistants in towns of less than 50,000, unless by order they are included. Barbers' and hairdressers' establishments in towns of less than 100,000 are also excluded unless by order they are brought within the scope of the Decree.

In *Portugal*, by the Hours of Work Decree, commercial undertakings in small centres of population and "industrial undertakings of a conspicuously rural character" may be exempted by order from the hours regulations. On the other hand, direct exemption is given in the Decree to undertakings for constructional work of a domestic or agricultural character not situated in towns or villages classified as equal or superior to the chief place of a